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THE INCOME TAX LAW

OF

THE UNITED STATES OF AMERICA

ANALYZED AND CLARIFIED

BY

entry
ALBERT H. WALKER

AUTHOR OF

WALKER ON PATENTS,

AND THE

HISTORY OF THE SHERMAN LAW.

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PREFACE.

The income tax law of the United States is Section II, of the Act to reduce tariff duties, and provide revenue for the Government, and for other purposes, which was approved by President Wilson, October 3, 1913. The income tax section of that Act has ten thousand words, which are printed in thirty-three paragraphs. Those paragraphs are arranged in fourteen groups, the first paragraph of each of which groups is prefixed by a capital letter, and all of which groups are arranged in alphabetical order, from A to N, inclusive, and are designated as "subsections" in the statute and in this pamphlet. Subsection A comprises two paragraphs, which are designated at their respective heads, as Subdivision 1, and Subdivision 2, respectively. None of the other subsections contains any designations of the paragraphs of which it is composed; except Subsection G and Subsection I. The first three paragraphs of Subsection G are designated by the letters a, b and c, respectively; while its fifth paragraph is designated by the letter d; and its fourth paragraph, and its sixth and last paragraph, are undesignated by any letter or number. Subsection I comprises five paragraphs, the first of which is undesignated, except by the letter I, which refers to them all; while its second, third, fourth and fifth paragraphs are designated as "Sec. 3167, Sec. 3172, Sec. 3173, and Sec. 3176, respectively. Each of sixteen of the thirty-three paragraphs is composed partly of affirmative sentences, and partly of one or more of forty "Provisos," which are scattered through those sixteen paragraphs.

This division of the ten thousand words of statutory language into subsections, subdivisions, paragraphs and provisos, is partly reasonable and partly arbitrary and partly fortuitous. Most of the sentences into which those ten thousand words are divided, are very long and ex-

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tremely complicated, and many of them are also heterogeneous. Moreover, those provisions of the statute which relate to any one subject, are generally scattered so widely and promiscuously through its subsections, subdivisions, paragraphs and provisos, that nobody can reliably learn all the enactments of the statute, relevant to any particular subject, without a long study of the entire statute, made either by himself or by some other person. Such a study made by any man for himself, would take all his time and energy for several days, even if he aimed to learn the statute upon only one subject; and no man, by unaided study of the statute, can learn in a month, all the law which it enacts. Indeed, that study of the statute which was made and was necessary in producing this pamphlet, took much more than a month of the hard and constant mental labor of its long experienced author.

Though the text of the statute is generally ambiguous in its sentences, and often heterogeneous in the sequences of its provisions; it is also true that those provisions, when clearly restated and logically rearranged, constitute a nearly complete system of enacted law. That law, being founded upon the recently ratified sixteenth amendment to the Constitution of the United States, and having been lately enacted by the Congress of the United States and signed by the President, is entitled to the willing obedience of every citizen of any of those States, and of every alien who resides or conducts business in our country. But no law can be reliably obeyed without being reliably known. And it is the intended function of this pamphlet to inform every attentive reader of its pages, precisely how the law applies to him, or to any other person, or to any organization anywhere.

ALBERT H. WALKER.

PARK ROW BUILDING,
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ANALYSIS
of
THE UNITED STATES INCOME TAX LAW.
CHAPTER I.
RELEVANT TO NATURAL PERSONS.

SECTION 1.

INTRODUCTION.

The first paragraph of the statute purports to specify three classes of persons as subjected thereto: *First*, all citizens of the United States: *Second*, all aliens residing in the United States: and *Third*, all persons residing elsewhere, who derive incomes from sources in the United States. That paragraph also provides that every person, belonging to the first or to the second of these classes, shall pay an income tax upon his entire net income, arising from all sources; but its only provision relevant to the third class of persons is that every person belonging to that class, shall pay an income tax upon his entire net income, derived from sources in the United States.

A serious ambiguity in this paragraph arises from the fact that all citizens of the United States who reside in foreign countries belong to the first class, and also

belong to the third class of persons which the paragraph purports to tax; and in the fact that it purports to tax every person belonging to the first class on his entire net income, while purporting to tax every person belonging to the third class, on only that portion of his entire net income which he derives from sources in the United States. Inasmuch as the paragraph clearly purports to tax the incomes which aliens, residing in this country, derive from sources in foreign countries; it appears to be probable that Congress also intended to tax the incomes which citizens of the United States, residing in foreign countries, derive from sources in foreign countries. And that is the clear purport of the first part of the paragraph. But the last part of the paragraph appears to exempt citizens of the United States residing in foreign countries, from all income taxes upon incomes derived from foreign sources. This inconsistency between the two parts of the first paragraph of the statute, is not plainly removed anywhere in the statute. But it is probable that the Commissioner of Internal Revenue, and also whatever courts are called upon to construe the statute on this point, will hold that it applies to all citizens of the United States alike, and that it taxes every one of them upon his entire net income whether that income is derived from sources in the United States, or from sources in one or more foreign countries, or from both those classes of sources.

The first paragraph of the statute provides that every net income subjected thereto, is thereby made liable to the "normal income tax" of one per cent per annum, whatever the amount of that net income may be ascertained to be; and subsequent parts of the statute prescribe the method of ascertainment of the amount of a net income, for the purpose of the assessment of the normal tax.

The second paragraph of the statute provides for an "additional income tax" upon the net income of some, but not all, of the persons whose incomes are subjected, by the first paragraph, to the normal income tax. Later parts of the statute prescribe how the amount of a net income is to be ascertained, for the purpose of the assessment of the additional income tax; and that method of assessment is substantially different from the method prescribed by the statute for the ascertainment of the amount of a net income for the purpose of the assessment of the normal income tax.

It is the plan of this chapter of this pamphlet, to first explain the provisions of the statute which relate to assessment upon persons, of the normal income tax; and afterward to explain in a separate section, the provisions of the statute which relate to the assessment of the additional income tax; which latter is imposed by the statute upon persons only; and not upon corporations or other organizations.

SECTION 2.

THE NORMAL INCOME TAX ON PARTICULAR PERSONS.

The method of the assessment of the normal income tax on citizens of the United States, and on aliens residing in the United States, is as follows:

All items of income derived from any source, are added together; except any interest, received upon any obligation of the United States or any of its possessions, or of any State or any political sub-division thereof; and except the value of property acquired by gift, bequest, devise or descent; and except proceeds of life insurance policies paid upon the death of the insured; and except repayments made to holders of life

insurance, endowment or annuity contracts, upon the maturity or surrender of such contracts. In this pamphlet, the sum of this addition is designated as the "personal gross income," and the much smaller amount upon which the normal income tax is calculated by percentage arithmetic, is designated in this pamphlet, as the "personal taxable income."

The personal taxable income is ascertained by deducting, from the personal gross income, the following items:

FIRST: All necessary expenses, actually paid in carrying on any business, not including personal, living or family expenses.

SECOND: All interest paid on indebtedness.

THIRD: All national, State, county, school and municipal paid taxes; except assessments for local benefits.

FOURTH: All losses incurred in trade, or arising from fire, storm or shipwreck; and not compensated by insurance or otherwise.

FIFTH: Worthless debts, charged off within the year.

SIXTH: Reasonable allowance for depreciation of property, arising from its employment; not exceeding, in case of a mine, five per cent of the gross value at the mine, of its annual output; but no deduction shall be made on account of expense incurred in undoing any depreciation of property, in addition to the reasonable allowance for that depreciation.

SEVENTH: All dividends received upon corporate stock, and all other amounts received from the net earnings of any corporation, or joint stock company, or association, or insurance company, which is taxable upon its net income, under this statute.

EIGHTH: Any income, exceeding \$3,000, the income tax upon which has been paid or withheld for payment at its source, as prescribed by the statute.

NINTH: In the case of President Wilson, his compensation during his present term; and in the cases of all United States judges who were in office at the date of the enactment of the law, their compensations; and in the cases of all officers and all employees of any State or political subdivision thereof, their compensations, except when such a compensation is paid by the United States.

TENTH: In the case of any person, not living with a wife or a husband, \$3,000.

ELEVENTH: In the case of a man and his wife living together, \$4,000.

COMMENTS ON THE FOREGOING PARTS OF SECTION 2.

Though the value of property acquired by gift, bequest, devise or descent, is not included among the items which are added together to constitute the personal gross income, all income from any such property is included among those items.

The first deduction which the statute prescribes from the personal gross income, when ascertaining the personal taxable income, is therein **designated by the word "expenses."** In the case of a merchant, this word includes the cost of the merchandise which he buys and sells, as well as the expenses which he incurs in buying and in selling that merchandise. **In the case of a manufacturer,** the word includes the cost of the materials which he buys to transform, as well as the wages of the workmen, and all the other expenses which he incurs in the transformation, which his manufacturing constitutes. In the case of an importer, the word includes the duties he pays on his imports, as well as the cost in foreign countries, of the imported merchandise, and the cost of transportation thereof, from thence to the United States. And in the cases of distillers and other persons, who

pay imposts and excises upon alcohol and other liquors, or upon tobacco in some of its forms, or upon other commodities, the manufacture or sale of which is subject to imposts or excises; the word "expenses" includes those imposts and excises, as well as the cost of making or the cost of buying the commodities upon which they are respectively imposed.

The third deduction which the statute prescribes from the personal gross income, when ascertaining the personal taxable income of a natural person, appears to include all national taxes. But that deduction can not include any of those forms of national taxes which are designated in the Constitution of the United States as "duties, imposts and excises"; for those items, being included among the "expenses" which constitute the first deduction, can not rightly be included again, among the third class of deductions, under the name of "taxes." The phrase "national taxes" in the statutory designation of the third class of deductions, will doubtless be held to be limited to whatever national taxes are really burdensome to the persons taxed, and therefore to exclude whatever duties, imposts or excises or other taxes, are shifted by those who originally paid them, to the purchasers of the commodities upon which they are respectively levied.

The fourth deduction which the statute prescribes from the personal gross income, when ascertaining the personal taxable income, appears to be limited to losses incurred in trade, or arising from fire, storm or shipwreck. This limitation was probably inadvertent, for losses incurred from railroad wreck, or other disaster unpreventable by the losers, and losses arising from earthquake or other "act of God," ought evidently to be included with losses arising from fire, storm or shipwreck. But it will be difficult and perhaps impossible, to

find in the statute any language upon the basis of which losses arising from destruction of property otherwise than by shipwreck, storm or fire, can be included in this fourth deduction.

The seventh deduction, which the statute prescribes from the personal gross income, when ascertaining the personal taxable income of a person, is based upon the theory that the net earnings of the corporations, joint stock companies, associations and insurance companies, with which that seventh deduction deals, have already been reduced to the extent of the normal income tax thereon, before being made the basis of dividends, or other payments, distributed among the stockholders or other proprietors of such corporations, joint stock companies, associations or insurance companies; and upon the fact that, in the absence of that deduction, those stockholders, or other proprietors, would practically be paying the normal income tax twice upon the same earnings.

The eighth deduction which the statute prescribes from the personal gross income, when ascertaining the personal taxable income of a person, refers to a subsequent and highly complicated portion of the statute, which is explained in Section 5 of this Chapter.

The ninth deduction which the statute prescribes from personal gross income, when ascertaining personal taxable income, was necessary in the case of President Wilson, and in the cases of all United States judges who were in office at the date of the enactment of the law; because the Constitution of the United States prohibits any diminution of the salary of the president "during the period for which he shall have been elected," and prohibits any diminution of the salary of any United States judge "during his continuance in office;" and because an income tax, on any salary, would diminish it.

SECTION 3.

THE NORMAL INCOME TAX ON NON-RESIDENT ALIENS.

The provisions of the statute, relevant to persons residing in foreign countries, but deriving incomes from property owned, or from business, trade or profession conducted in the United States are ambiguous provisions. The second paragraph of Section 1 of Chapter 1 of this pamphlet explains the ambiguity which attends the question, whether those provisions, such as they are, apply to citizens of the United States residing elsewhere. In that Section and paragraph, the opinion is expressed that those provisions apply only to aliens residing in foreign countries, and deriving incomes from sources in the United States; and it is certain that those are the only provisions in the statute which do apply to such aliens. But whether those provisions apply only to such aliens, or apply also to citizens of the United States residing in foreign countries, they are ambiguously expressed in the statute, as the following analysis of the subject will show.

The fifth paragraph of the statute reads as follows:

“The net income from property owned and business carried on in the United States, by persons residing elsewhere, shall be computed upon the basis prescribed in this paragraph, and in that part of paragraph G, of this Section relating to the computation of the net income of corporations, joint stock and insurance companies organized, created or existing under the laws of foreign countries, in so far as applicable.”

How far those provisions of paragraph G, which relate to foreign corporations, joint stock companies and insurance companies, are applicable to alien persons residing in foreign countries, is a question of construction of the statute. So also, in construing the statute, attention must be given to the phrase "this paragraph," where it occurs in the paragraph above quoted. In order to give that phrase any effect, it must be construed to refer to those four paragraphs, of which it is the third, and which appear to be segregated from the other paragraphs of the statute, by the letter B, which is prefixed to the first of them. The theory that Congress intended by the phrase "this paragraph" to include the group of four paragraphs which are printed between the letter B and the letter C, is supported by the fact that the third of those paragraphs speaks of "paragraph G" as being composed of parts, and by the fact that the "part" therein particularly referred to, comprises many elaborate provisions which are printed in the latter part of the third paragraph, of the group of paragraphs which are preceded by the letter G. These circumstances indicate that the word "paragraph" is used in the statute to designate one or another of the groups of paragraphs which are respectively preceded by the first fourteen letters of the alphabet. It is only on this assumption, that anybody can learn from the statute, by what method any income tax is to be assessed against alien persons residing in foreign countries, on account of incomes derived by them from sources in the United States. If this assumption is correct, that method appears to be as follows:

All items of income accrued from business transacted or from capital invested in the United States are added together; except any interest received upon any obligation of the United States, or of any of its possessions, or of any State or of any political subdivision

thereof; and except the value of property acquired by gift, bequest, devise or descent; and except proceeds of life insurance policies paid upon the death of the insured, and except repayments made to holders of life insurance, endowment or annuity contracts, upon the maturity or surrender of such contracts. In this pamphlet the sum of this addition is designated as "the personal gross income, from the United States, of non-resident aliens," and the much smaller amount upon which the normal income tax against such non-resident aliens, is calculated by percentage arithmetic, is designated in this pamphlet as the "personal taxable income of non-resident aliens."

That personal taxable income is apparently to be ascertained, by deducting from that personal gross income, the following items.

FIRST: All the ordinary and necessary expenses, actually paid out of earnings, in the maintenance and operation of the non-resident alien's business and property in the United States.

SECOND: Such a proportion of the interest accrued and paid on the indebtedness of the non-resident alien, as the gross amount of his income from business transacted and capital invested in the United States, bears to the gross amount of his income, derived from all sources in the world.

THIRD: All taxes collected upon the property or business of a non-resident alien in the United States, under the authority of the United States, or of any State or Territory thereof or the District of Columbia, not including assessments for local benefits.

FOURTH: All losses actually sustained by the non-resident alien, in business conducted within the United States, and not compensated by insurance or otherwise.

FIFTH: Worthless debts, charged off during the year, from books of account of business in the United States.

SIXTH: Reasonable allowance for depreciation of property, arising from its employment in the United States; not exceeding, in the case of a mine, five per cent of the gross value at the mine, of its annual output.

SEVENTH: All dividends received upon corporate stock, and all amounts received from the net earnings of any corporation, joint stock company, association or insurance company, which is taxable upon its net income, in the United States, under this statute.

EIGHTH: Any income, exceeding \$3,000, the income tax upon which has been paid or withheld for payment at its source in the United States, according to the statute.

NINTH: In the case of a person not living with a wife or a husband \$3,000.

TENTH: In the case of a man and his wife living together, \$4,000.

COMMENTS ON THE FOREGOING PARTS OF SECTION 3.

The comments which are inserted in this pamphlet as the latter part of Section 2, and which relate to the preceding part of that section are also substantially applicable to the corresponding parts of this section, with the following exception:

The fourth deduction from the personal gross income which may be made by a citizen of the United States or by an alien residing in the United States, is expressly limited to losses incurred in trade or arising from fire, storm or shipwreck, and not compensated by insurance or otherwise; whereas the corresponding deduction which the statute permits to be made by a non-resident alien, appears to include all losses, which are not compensated by insurance or otherwise.

SECTION 4.

THE RATE OF THE NORMAL INCOME TAX.

The "normal income tax" is one per cent of the "personal taxable income," in the case of a citizen of the United States, and in the case of an alien residing in the United States; as that personal taxable income is ascertained by the method which is explained in Section 2 of this chapter. And the normal income tax is one per cent of the "personal taxable income of non-resident aliens", in the case of an alien residing in some foreign country, but deriving an income from property owned, or from business, trade or profession conducted in the United States; as that taxable income is ascertained by the method explained in Section 3.

SECTION 5.

PERSONAL NORMAL INCOME TAXES COLLECTED AT THEIR SOURCES.

The statute imposes certain vicarious duties upon every person or organization which accumulates, or otherwise receives, money for another person, during any taxable year; where the amount of that money is fixed or determinable in annual or other periodical parts.

The persons and organizations upon which these vicarious duties are imposed by the statute, are therein designated as all persons, firms, copartnerships, companies, corporations, joint stock companies, associations, insurance companies, lessees, mortgagors, trustees, guardians, executors, administrators, agents, receivers, conservators, employers, and officers and employees of the United States. But those vicarious duties are im-

posed upon such persons and organizations, only when and where they respectively have the control, receipt, custody, disposal, or payment, of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emolument, or other fixed or determinable annual gains, profits and income of some other person or persons, and only under the circumstances stated in this section.

The function of those provisions of the statute which relate to this subject, is to increase the efficiency and diminish the cost of the official work, which is involved in assessing and collecting personal normal income taxes; while sometimes increasing, and sometimes not increasing, the burden of such a tax upon the persons out of whose incomes it is taken. That function is performed by the statute, substantially as follows:

The statute undertakes to compel every person and every organization, such as any of those mentioned in this Section 5, as having vicarious duties, to act as agents of the Government, in respect of all fixed or determinable payments which will accrue, at any time after the end of October, 1913, to be made by those vicarious parties respectively, to the person or persons, for whom they shall have been respectively accumulated or otherwise received.

In executing that agency, each vicarious party will begin by classifying the moneys due from him or it, to each person, who in the absence of this statute, would be entitled to receive any of those moneys.

The first class of those moneys will include all items such as those which, according to the statute, are exempt from the normal income tax, when they are in the hands of the persons to whom they beneficially belong. Those items are the following:

FIRST: All interest, received upon any obligation of the United States or any of its possessions, or any State or any political subdivision thereof.

SECOND: The value of any property, received by the vicarious party, by way of gift, bequest, devise, or descent, for the benefit of the person beneficially entitled thereto.

THIRD: All proceeds of life insurance policies, paid upon the death of the insured, and received by the vicarious party on behalf of the respective beneficiaries of those life insurance policies.

FOURTH: All repayments, made for the benefit of any holder of any life insurance, endowment, or annuity contract, upon the maturity or surrender of any such contract.

FIFTH: All dividends, received upon corporate stock, and all other amounts received from the net earnings of any corporation, joint stock company, association, or insurance company, which is taxable upon its net income under the statute.

The statute does not, in respect of any item in this first class, put any reportorial or returning duty, upon the vicarious party which has the custody or control of that item.

The second class of those moneys will include all items which, according to the statute, must be reported in full. Those items are the following:

FIRST: All interest upon bonds, mortgages or deeds of trust, or other similar obligations of corporations, joint stock companies or associations, or insurance companies, whether payable annually or at shorter or longer periods.

SECOND: Coupons, checks, or bills of exchange, for or in payment of any dividend upon any stock, or any interest upon any obligation of any foreign corporation,

association or insurance company, engaged in business in any foreign country.

THIRD: Coupons, checks or bills of exchange, for or in payment of interest, upon any bond of any foreign country, or upon any foreign mortgage or like obligation, which is not payable in the United States.

The statute requires the vicarious party who receives any money of this second class, to return to the collector of internal revenue, an itemized account of all such money, and to pay to the collector one per cent of its aggregate amount, instead of paying the whole of that money to the party which, in the absence of the statute, would be entitled to receive it all.

The statute also provides that all persons, firms or corporations, undertaking as a matter of business or for profit, the collection of foreign payments of such interest or dividends, by means of coupons, checks, or bills of exchange, shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations as that officer, with the approval of the Secretary of the Treasury shall prescribe; and that any person who undertakes to collect such payments without such a license, or without complying with such regulations, will be guilty of a misdemeanor; and for each offense will be fined not more than \$5,000, or imprisoned not more than one year, or both, in the discretion of the Court.

The third class of those moneys will include all items which do not belong to the first class or to the second class. Where this class of money aggregates not more than \$3,000 in the case of a particular beneficiary, the statute does not put any reportorial duty upon the vicarious party, which has the custody or control of that money.

But where this third class of moneys aggregates more than \$3,000 in the case of a particular beneficiary of a particular vicarious party, the statute requires that party to return, to the collector of internal revenue, an itemized account of all those moneys, and to pay to the collector one per cent of their aggregate amount, instead of paying that one per cent to the party to whom the ninety-nine per cent of that aggregate amount is paid.

The statute recognizes the probability that the foregoing plan for collecting some portion or portions, and in some cases the whole, of the income tax due from a particular person, at the source or sources of his income, would, unless modified for particular cases, operate to deprive that person of the benefit of one or more of the first nine deductions from the "personal gross income" which are specified in Section 2 of this chapter, as proper to be made, when ascertaining the "personal taxable income" of particular persons.

To enable any person, thus likely to suffer from the plan, to avert such an injustice, the statute provides that such a person, not less than thirty days prior to the day on which personal incomes are returnable to the collector of internal revenue, may file with his vicarious party, a true and correct return of his annual gains, profits and income, from all other sources than that vicarious party; together with a true and correct statement of such of the first nine deductions which are specified in Section 2 of this chapter, as ought to be made from the "personal gross income" of the person filing the said true and correct return. Such a paper having been filed with the vicarious party; the statute provides that it shall become a part of the return to the collector of internal revenue, which is to be made by that party. But the statute does not provide that the vicarious party

may refrain, on account of having received such a paper, from diverting from its sender, to the collector of internal revenue, the whole or any portion of the money which, in the absence of such a paper, he is required to divert.

The statute also indicates, without elaborately providing, that any person who might otherwise suffer injustice from the plan of taxing personal incomes at their respective sources, may make an application to the collector of internal revenue, asking that any of the said nine deductions from his gross personal income may be subtracted therefrom, or he be somehow credited therewith. But the statute does not provide how any person can recover any money from the collector of internal revenue, on account of any such credit or deduction; even where it is plain that the plan of taxing personal incomes at their sources, has caused the collector of internal revenue to receive more money out of the gross personal income of a particular person, than he would have received if that income had been accounted for, in the hands of that person himself. That subject is apparently relegated to section 3220 of the Revised Statutes of the United States, which provides that the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized, on appeal to him made, to remit, refund and pay back all taxes that appear to have been unjustly assessed, or made excessive in amount, or to have been in any manner, wrongfully collected.

To enable any person who might otherwise lose the benefit of the tenth or eleventh deduction specified in Section 2 of this chapter, as a result of the plan of taxing personal incomes at their sources; the statute provides that such a person, not less than thirty days prior

to the day on which personal incomes are returnable, may file with his vicarious party, a signed notice in writing, claiming the benefit of whichever of those deductions he is entitled to have made from his gross personal income. And thereupon the statute provides that the vicarious party shall take that deduction into account, in making his return to the collector of internal revenue. To guard the Government against fraud on this point, the statute provides that any person who knowingly makes any false or fraudulent representation in such a notice as is above specified in this paragraph, shall be liable to a penalty of \$300.

In respect of any application, or other act, proper to be made or done to protect the payer of an income tax from excessive taxation, by reason of his income being taxed partly or wholly at its source or sources; the statute provides that if such a person is a minor, or is an insane person, or is absent from the United States, or is prevented by illness from personally attending to the business, that function may be performed for him, by his vicarious party; that party making oath that he has sufficient knowledge of the affairs and property of his beneficiary, to enable him to make a full and complete return for the latter, and that the papers presented with that oath, are full and complete.

In respect of this entire plan for collecting personal normal income taxes at their respective sources, the statute provides that it applies only to the normal tax imposed upon natural persons; and thus provides that it does not apply to the additional tax which is imposed upon wealthy natural persons, nor to any income tax which is imposed upon any corporation or other organization. And the statute also provides that any person, whose whole income reaches him from one or more vi-

carious parties, which have made return and paid normal income tax for him, shall not be required to himself make any return to the collector of internal revenue. But if any person receives into his own hands, without the intervention of any vicarious party, enough gross personal income, to leave a taxable personal income after all proper deductions are made therefrom, he must make to the collector of internal revenue, such a return as is prescribed by the statute, in respect of the gross personal income directly received by him. And whether the income return for a particular person, is made partly by himself, and partly by each of one or more vicarious parties on his behalf, or is made on his behalf by any number of vicarious parties, without any being made by himself; the statute does not allow any duplication of any deduction from gross personal income, in any process of ascertaining personal taxable income.

A very important provision of the statute, relevant to its plan for collecting personal normal income taxes at their respective sources, resides in the fact that those vicarious parties who constitute those sources, are legally liable to pay to the collector of internal revenue, all the moneys which the statute requires them to divert from those persons to whom, in the absence of the statute, those vicarious persons would be legally liable to pay those identical moneys. This provision makes it necessary for every such vicarious party to avoid every error which might result in diverting, from their respective beneficiaries, too much money or too little money. For if a vicarious party thus diverts too much, he or it will be burdened with a legal liability to also pay the excess to the beneficiary, after having paid it to the collector of internal revenue. And if such a vicarious party diverts too little, and thereupon pays to the beneficiary whatever is left, he or it will be burdened with the legal

liability to also pay the difference to the collector of internal revenue, after having paid it to the beneficiary.

COMMENTS ON THE FOREGOING PROVISIONS OF SECTION 5.

The provisions of the statute on this subject are substantially those which the tax bill contained, when it passed the House of Representatives on May 8, 1913. But when the bill passed the Senate on September 9, 1913, it contained a number of important amendments to those parts of the House bill which related to this subject. Among those amendments, were two important ones, which were discarded by the Committee of Conference, during the twenty days of consideration by that committee of the Senate amendments. And those two amendments, thus discarded, were also discarded by both Houses, when they agreed to the report of the Committee of Conference, and passed the bill in its final shape.

The first of those discarded amendments, exempted tenants and lessees from all vicarious duties relevant to the incomes of landlords or lessors; except when, in the cases of persons, trustees and other non-corporate owners, the leases executed by them, require the respective tenants to pay State and municipal taxes and assessments against the property. That amendment having been discarded by both Houses of Congress; the statute now imposes a vicarious duty upon every tenant or lessee, who has promised to pay any landlord or lessor, more than \$3,000 per annum, as rent on any leased property. That duty includes making a true return to the collector of internal revenue, stating the details of all such promised payments of rent, and thereafter diverting one per cent of the aggregate of those payments, from that landlord or lessor, and paying that diverted money to the collector of internal revenue.

The second of those discarded amendments provided that where, under the terms of a contract, entered into before the act would take effect, the payment to be made by the vicarious party to his or its beneficiary, is required to be made without any deduction on account of any tax; the obligor should not be compelled to assume or perform any such vicarious duty, in respect of that payment as that imposed by the statute upon other vicarious parties. The omission of this amendment from the statute as enacted, will undoubtedly operate to compel an obligor under such an old contract, to pay to the collector of internal revenue, one per cent upon the annual amount of his obligation under the contract; while not relieving him from his obligation to pay the full amount to his obligee. But the statute provides that no contract, made after its enactment, will be valid to shift the burden of an income tax, from the beneficiary of the income to some other party.

This statutory plan of collecting personal normal income taxes, at the sources of the respective incomes, will impose a large uncompensated expense upon the vicarious parties who are required by the statute, to make returns to the collector of internal revenue, of the details and the amounts of those incomes. And those vicarious parties will also be compelled by the statute, to avoid at their peril, every substantial error in making up those vicarious returns.

This vicarious scheme is perhaps violative of the Fifth Amendment to the Constitution of the United States. But no resulting invalidity will invalidate any other part of the law; for paragraph T, of Section IV, of the tax statute, of which the income tax law, is Section II, provides that no invalidity of any part of that statute, shall impair or invalidate any other part thereof.

SECTION 6.

THE ADDITIONAL INCOME TAX.

The method of ascertaining the "personal taxable income" upon which the "additional income tax" is based, is the same as the method of ascertaining the personal taxable income on which the normal income tax is based; except that the seventh and eighth deductions which are allowed in respect of the normal income tax, are not allowed in respect of the additional income tax; and except that one deduction of \$20,000 is allowed in respect of the additional income tax, instead of the deduction of \$3,000, or the deduction of \$4,000, one or the other of which is allowed in respect of the normal income tax.

Instead of allowing the seventh deduction, when assessing the "additional income tax"; the statute provides that every person subject to that tax, shall make a personal return of his total net income, corporate or otherwise, and that, for the purpose of that additional tax, his taxable income shall include his share of the gains and profits of all corporations, joint stock companies, or associations, whether those gains and profits have been divided or not, and particularly where such an organization has been formed or fraudulently availed of for the purpose of preventing the imposition of the additional income tax, through the medium of permitting its profits to accumulate, instead of being divided or distributed among the members of the organization. To guard against all such frauds, the statute provides that the fact that any such corporation, joint stock company or association, is a mere holding company, or the fact that its gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be *prima facie* evidence

of a fraudulent purpose to enable its stockholders to escape the "additional income tax" which they would have to pay if those gains and profits were distributed among them. But to guard against doing possible injustice to persons in particular cases, the statute also provides that the mere fact that gains and profits are permitted to accumulate into a surplus, in the treasury of a corporation, joint stock company or association, shall not constitute evidence of a purpose to enable its stockholders to escape the "additional income tax"; unless the Secretary of the Treasury shall certify that, in his opinion, that particular accumulation is unreasonably large for the purposes of the business. And to enable the Secretary of the Treasury to form a correct opinion on this point, the statute provides that any corporation, joint stock company or association, shall furnish a correct statement of its accumulated profits, and of the names of the persons who would be entitled to receive them, if distributed, whenever the Commissioner of Internal Revenue, or any collector of internal revenue shall request such a statement.

The fact that the eighth deduction from the "personal gross income" which is allowed when ascertaining the "personal taxable income" which is subject to the normal tax, is not allowed when ascertaining the "personal taxable income" which is subject to the additional tax, is a logical and proper fact. For that eighth deduction refers to those complicated parts of the statute which relate to collecting the "normal income tax", which is due from particular persons, from those vicarious parties who have the custody of the taxed incomes at their respective sources. Inasmuch as those complicated parts of the statute are expressly confined to the "normal tax" upon the incomes of natural persons; the "additional income tax", is never collectable

at the source of the income upon which it is based, and is collectable only after that income reaches the hands of whoever is beneficially entitled thereto. And in order to impose the "additional income tax" upon that income in those hands; when ascertaining the "personal taxable income" for the purposes of the "additional income tax," it is proper to ignore the eighth deduction from the "personal gross income" which is properly made when ascertaining the "personal taxable income" for the purpose of the "normal income tax."

SECTION 7.

THE RATES OF THE ADDITIONAL INCOME TAX.

The "personal taxable income" upon which the "additional income tax" is based, having been ascertained by the method explained in Section 2, or by that of Section 3, of this Chapter; the "additional income tax" is assessed on the following scale: the first \$30,000, or fraction thereof at one per cent; the next \$25,000, or fraction thereof at two per cent; the next \$25,000, or fraction thereof at three per cent; the next \$150,000, or fraction thereof at four per cent; the next \$250,000, or fraction thereof at five per cent; and all income above that \$250,000, at six per cent. This method of stating the scale is a translation into other words and figures, of the exact words and figures in which the same scale is expressed in the statute, and which figures and words are as follows:

"One per centum per annum upon the amount by which the total net income exceeds \$20,000 and does not exceed \$50,000, and two per centum per annum upon the amount by which the total net income exceeds \$50,000 and does not exceed \$75,000, three per centum per annum

upon the amount by which the total net income exceeds \$75,000 and does not exceed \$100,000, four per centum per annum upon the amount by which the total net income exceeds \$100,000 and does not exceed \$250,000, five per centum per annum upon the amount by which the total net income exceeds \$250,000, and does not exceed \$500,000, and six per centum per annum upon the amount by which the total net income exceeds \$500,000."

SECTION 8.

EXAMPLES OF TOTAL INCOME TAXES IN VARIOUS CASES.

A single man or a single woman having a taxable income of \$10,000, as ascertained to be the basis of the normal income tax in that case, will be taxed one per cent on \$7,000 or \$70.

Any man having a taxable income of \$40,000, as ascertained to be the basis of the additional income tax in his case, will, in addition to whatever tax is levied upon him as his normal income tax, pay an income tax of one per cent upon \$20,000 or \$200.

Any man having a taxable income of \$70,000, as ascertained to be the basis for the additional income tax in his case, will, in addition to whatever tax is levied upon him as his normal income tax, pay a tax of one per cent upon \$30,000, and two per cent upon \$20,000, or \$700.

Any man having a taxable income of \$140,000, as ascertained to be the basis for his additional income tax, will, in addition to whatever tax is levied upon him as a normal income tax, pay a tax of one per cent upon \$30,000, and two per cent upon \$25,000, and three per cent upon \$25,000, and four per cent upon \$40,000, or \$3,150 in all.

Any man having a taxable income of \$250,000, as ascertained to be the basis for his additional income tax, will, in addition to whatever tax is levied upon him as the normal income tax, pay a tax of one per cent upon \$30,000 and two per cent upon \$25,000, and three per cent upon \$25,000, and four per cent upon \$150,000, or \$7,550 in all.

Any man having a taxable income of \$500,000, as ascertained to be the basis for the additional income tax, will in addition to whatever tax is levied upon him as a normal income tax, pay a tax of one per cent upon \$30,000, and two per cent upon \$25,000, and three per cent upon \$25,000, and four per cent upon \$150,000, and five per cent upon \$250,000, or \$20,050 in all.

And any man having a taxable income of more than \$500,000, as ascertained to be the basis for the additional income tax, will, in addition to whatever tax is levied upon him as a normal income tax, pay a tax of \$20,050, plus six per cent upon whatever amount that taxable income exceeds \$500,000. For example, a man having such a taxable income of \$40,000,000, will in addition to whatever tax is levied upon him as a normal income tax, pay an additional income tax of \$2,390,050.

The amount of the normal tax in any of the foregoing cases, or in any other case, will partly depend upon the question whether the "gross personal income" in that case consists partly or wholly of dividends, or other amounts, received from the net earnings of corporations; or consists wholly or partly of money, derived directly from its sources, by those beneficially entitled thereto, without the intervention of any corporation, or other organization, which is taxable upon its net income.

For example, one man may have a net income of \$3,003,000, which is wholly derived from rents on real estate owned by him; and such a man will pay a normal income

tax of one per cent on \$3,000,000, amounting to \$30,000; and will pay an additional income tax on \$2,983,000, amounting to \$169,030; and will thus have to pay an aggregate income tax of \$199,030. And another man may have a net income of \$3,003,000 which is derived wholly from dividends on railroad stocks owned by him; and such a man will not have to pay any "normal income tax," but will have to pay the same amount of "additional income tax" as the other man, namely \$169,030.

For another example, one man may have a net income of \$20,000, which is wholly derived from the profits of a mercantile establishment owned by him; and such a man if unmarried, will have to pay only a "normal income tax" of one per cent upon \$17,000, amounting to \$170. And another man may have a net income of \$40,000, which is derived wholly from dividends on national bank stocks; and such a man will not have to pay any "normal income tax," but will have to pay an "additional income tax" on one per cent on \$20,000, amounting to \$200.

The foregoing differences between the proportionate burdens placed by the income tax law upon different persons, and all other differences which will develop from the application of the double plan of the "normal income tax" and the "additional income tax," are not unreasonable. Those differences all arise from the following ethical views entertained by Congress: First, persons having net incomes of not more than \$20,000, which are wholly derived as dividends upon corporate stocks, ought not to be compelled to pay any income tax; because the corporate money which was divided between them, had already been subjected to an income tax, when it was in the treasuries of the corporations which issued those stocks. Second, persons having net incomes of more than \$20,000, are wealthy persons, all of whom should be subjected to the "additional income tax," whatever may be the source

or sources of their respective incomes; but those of them who derive their incomes from dividends on stocks, ought not to be subjected to the "normal income tax," because that tax has been practically paid by them, already, out of the net earnings of the corporations which issued those stocks. Third, wealthy persons should be compelled and indeed should be willing to bear income taxes which increase in their percentages, as their wealth increases at various stages of advance. Thus a man having a net income of \$1,000,000, derived from the profits of a great department store, is properly required by the statute, to pay an aggregate income tax thereon of \$60,020; while a merchant who derives a net income of \$100,000, from the profits of a small department store, is required by the statute to pay an aggregate income tax of only \$2,420; and a smaller merchant, who derives a net income of \$30,000 from the profits of a still smaller mercantile establishment, is required by the statute to pay an aggregate income tax of only \$370.

SECTION 9.

PARTNERSHIPS.

The provisions of the statute relevant to partnerships, are few and simple. The only duty which the statute imposes upon any partnership, consists in furnishing to the Commissioner of Internal Revenue, or to any collector of internal revenue, upon request, a correct statement of its profits, for the preceding calendar year, and a list of the names of the partners entitled to have those profits distributed among them. The statute makes each partner in any partnership, liable to all its provisions, relevant to his share of the partnership profits, in the same ways that he would be liable, if he had received those profits from a business conducted by himself alone.

CHAPTER II.**CORPORATIONS AND OTHER ORGANIZATIONS.****SECTION 1.****EXEMPT ORGANIZATIONS.**

The income statute provides that no tax shall be levied under it, upon any income, derived from any public utility, or from the exercise of any essential governmental function, by any State or any political subdivision of a State.

The statute also provides that no tax shall be levied under it, upon the income derived from the operation of any public utility, so far as its payment would impose a loss or burden upon any State, or any political subdivision of a State; where that public utility shall have been contracted for, prior to October 3, 1913, with any person or corporation, by such State, or political subdivision. But this provision will not relieve any such person or corporation, from the tax upon the part of any such income, to which such person or corporation is entitled under such contract.

The word "State" signifies not only each of the forty-eight States, but also, the District of Columbia, Alaska, Hawaii, Porto Rico, and the Philippine Islands; wherever, in the statute, such signification is necessary to carry out its provisions.

The statute also provides that nothing therein shall apply to any organization, in any of the following classes:

Agricultural organizations.

Business leagues or chambers of commerce or boards of trade, not organized for profit, or no part of the net

income of which inures to the benefit of any private stockholder or individual.

Cemetery companies, organized and operated exclusively for the mutual benefit of their members.

Civic leagues or organizations, not organized for profit, but operated exclusively for the promotion of social welfare.

Corporations or associations, organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual.

Domestic building and loan associations.

Fraternal beneficiary societies, orders, or associations, operating under the lodge system and providing for the payment of life, sick, accident and other benefits to the members of such societies, orders or associations or dependents of such members.

Horticultural organizations.

Labor organizations.

Mutual Savings Banks, not having capital stock represented by shares.

SECTION 2.

NON-EXEMPT ORGANIZATIONS.

With the exceptions specified in Section 1, of this chapter; every corporation, joint stock company, insurance company and association, organized and existing in the United States; and every corporation, joint stock company, insurance company and association, organized and existing under the laws of any foreign country, and having capital invested or doing business in the United

States; is subject to the "normal income tax", but not to the "additional income tax", prescribed by the statute.

SECTION 3.

NON-EXEMPT AMERICAN ORGANIZATIONS.

The income tax levied upon each of such of the above mentioned non-exempt organizations as are organized in the United States, is ascertained by the following method:

All items of income, received from any and all sources, are added together; except any interest, received upon any obligation of the United States, or any of its possessions, or of any State, or any political subdivision thereof. In this pamphlet the sum of this addition is designated as the "corporate gross income"; and the much smaller amount upon which the corporate income tax is calculated, by percentage arithmetic, is designated in this pamphlet, as the "corporate taxable income".

The "corporate taxable income" is ascertained by deducting from the "corporate gross income", the following items:

FIRST: All the ordinary and necessary expenses, paid in the maintenance and operation of the corporate properties and business, including rentals or other payments required to be made, as a condition to the continued use or possession of property.

SECOND: All losses, actually sustained, and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use or wear and tear of property; and in the case of mines, a reasonable allowance for depletion of ores and other natural deposits, not to exceed five per cent of the gross value, at the respective mines, of their respective annual outputs.

THIRD: Interest, accrued and paid on the corporate indebtedness, to an amount not exceeding one-half of the sum of its interest-bearing debts and paid-up capital stock outstanding at the end of the year; or if there is no capital stock in a particular case, this deduction will not exceed interest upon the capital employed in the business at the end of the year. And in case a particular debt is wholly secured by some collateral, which is the subject of sale in the ordinary business of the organization owing that debt, the total interest secured and paid by that organization on that indebtedness, is deducted from the "corporate gross income" of that organization. Also in the case of a bank, banking association, loan company or trust company, which pays interest on deposits, or on money received for investment and secured by interest bearing certificates of indebtedness, issued by such bank, banking association, loan company or trust company, all such interest is likewise deducted. But the statute prohibits the inclusion in the deducted interest, of any interest paid by any corporation, joint stock company, or association, upon any bond, or other indebtedness, which was issued with a guaranty that the interest payable thereon, should be free from taxation, in the hands of the creditor holding it.

FOURTH: Taxes, imposed under the authority of the United States, or of any State or Territory thereof, or imposed by the Government of any foreign country.

FIFTH: In the case of any insurance company, the net addition, if any, required by law to be made within the year to its reserve fund or funds, and all payments made within the year, other than dividends, on insurance contracts or on annuity contracts.

SIXTH: In the case of any mutual fire insurance company, which requires its members to make premium deposits to provide for losses and expenses; whatever pre-

mium deposits have been returned to its policy holders, and whatever portions are retained for the payment of losses and expenses, or for reinsurance reserves.

SEVENTH: In the case of any life insurance company; the premium deposits actually returned to its policy holders, or actually credited to its policy holders by being deducted from the premiums otherwise due to the company.

EIGHTH: In the case of any mutual marine insurance company; all amounts paid for reinsurance, and all amounts repaid to its policy holders on account of premiums previously paid by them, plus whatever interest is paid upon any of said amounts, between the times of their ascertainment, and the times of their payment, respectively.

SECTION 4.

NON-EXEMPT FOREIGN ORGANIZATIONS.

The income tax levied upon each of such of the above mentioned non-exempt organizations, as are organized and existing under the laws of any foreign country, and have capital invested, or are doing business in the United States, is ascertained in respect of that business, by a somewhat different method, from that which is applicable to each of the corresponding organizations existing in the United States, in respect of its entire business.

The differences between those two methods of ascertainment, are the following:

FIRST: An organization existing in the United States, is entitled, as its first deduction from its "corporate gross income", to subtract all its ordinary and necessary expenses, in the maintenance and operation of its business and property; whereas a foreign organization is

entitled to make that deduction, only so far as those expenses are paid out of earnings made by it in the United States.

SECOND: An organization existing in the United States, is entitled, as its second deduction, to subtract from its "corporate gross income", certain classes of losses, actually sustained anywhere; whereas a foreign organization is entitled only to subtract the same classes of losses, when actually sustained in business conducted by it in the United States.

THIRD: An organization existing in the United States, is entitled as its third deduction, to subtract from its "corporate gross income", interest accrued and paid on its indebtedness, to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing debts, and its paid up capital stock outstanding at the end of the year; or if it has no capital stock, this deduction will not exceed interest upon the capital employed in its business at the end of the year; whereas a foreign organization is entitled to make only such a proportion of this deduction, as the gross amount of its income from capital invested and business transacted within the United States, bears to the gross amount of its income from all sources, throughout the world. Also, an organization existing in the United States is entitled to include in its third deduction, the total interest paid by that organization, on any debt which is wholly secured by some collateral, which is the subject of sale in the ordinary business of the organization owing that debt; and a bank, banking association, loan or trust company existing in the United States, is likewise entitled to include, in its third deduction, whatever interest it paid on deposits, or on moneys received for investment and secured by interest bearing certificates of indebtedness issued by that organization; whereas no corresponding organization,

existing under the laws of any foreign country, is entitled to include any interest of either of those classes, in its third deduction from its "corporate gross income".

FOURTH: A corporation organized in the United States, is entitled, in its fourth deduction from its "corporate gross income", to include all taxes imposed by the Government of any foreign country; whereas a foreign organization is not entitled to include any foreign taxes in that deduction.

FIFTH: The provisions of the statute, relevant to special deductions from "corporate gross incomes" in the cases of foreign insurance companies, are identical in language, with the corresponding provisions of the statute, in the cases of insurance companies organized and existing in the United States; which deductions are those above designated as Fifth, Sixth, Seventh and Eighth, respectively, in respect of corporations organized and existing in the United States.

Indeed, the language of those provisions is printed four times, without any change, in two adjoining paragraphs of the statute. The first instance of that printing, begins in line 5 from the bottom of page 115, and ends in line 22 from the top of page 116, of that copy of the statute which constitutes the appendix in this pamphlet. The second instance begins in the bottom line of page 117, and ends in line 27 of page 118, of the same appendix. The third instance begins in line 12 of page 121, and ends in line 3 of page 122, of the same appendix. And the fourth instance begins in line 9 and ends in line 35, of page 122, of the same copy of the statute.

SECTION 5.

MULTIPLE CORPORATE TAXATION.

The income tax law operates alike upon every corporation or other taxable organization; regardless of whether the capital stock of that organization is owned by natural persons, or is owned by some other organization. This operation of the law will result in multiple taxation of the same money, in each of the numerous cases in which stock in one corporation, is owned by another corporation.

For example, all of the stock of the Philadelphia & Reading Railway Company is owned by the Reading Company; and a large proportion of the stock of the Reading Company, is owned by the Lake Shore & Michigan Southern Railway Company; and substantially all the stock of the Lake Shore & Michigan Southern Railway Company, is owned by the New York Central & Hudson River Railroad Company; and a large amount of the stock of the New York Central & Hudson River Railroad Company, is owned by the Union Pacific Railroad Company. The net earnings of the Philadelphia & Reading Railway Company for the fiscal year ending June 30, 1913, were \$12,000,000. Assuming that the net earnings of that corporation for the fiscal year ending June 30, 1914, will be \$12,000,000, that corporation will pay an income tax of \$120,000 for that year, on that money. Afterward, most of the remaining \$11,880,000 will be paid by the Philadelphia & Reading Railway Company, to the Reading Company, as the entire dividend, payable for that year, on the stock of the Philadelphia & Reading Railway Company. Thereupon, the Reading Company will pay an income tax of one per cent upon the entire amount of that dividend.

Afterward, the Reading Company will pay to the Lake Shore & Michigan Southern Railway Company, a considerable share of what is left of the money received by the Reading Company, from the Philadelphia & Reading Railway Company. Thereupon, the Lake Shore & Southern Railway Company will pay an income tax of one per cent upon the money thus received by it from the Reading Company. Afterward, the Lake Shore & Michigan Southern Railway Company will pay to the New York Central & Hudson River Railroad Company, most of what is left of the money received by the Lake Shore & Michigan Southern Railway Company, from the Reading Company. Thereupon, the New York Central & Hudson River Railroad Company, will pay an income tax of one per cent upon the money thus received from the Lake Shore & Michigan Southern Railway Company. Afterward, the New York Central & Hudson River Railroad Company, will pay to the Union Pacific Railroad Company, much of what is left, of the money received by the New York Central & Hudson River Railroad Company, from the Lake Shore & Michigan Southern Railway Company. Thereupon, the Union Pacific Railroad Company, will pay an income tax of one per cent, on the money thus received from the New York Central & Hudson River Railroad Company.

In this particular example of the operation of the income tax law, it will result that the money received by the Union Pacific Railroad Company, through three intermediate corporations, from the Philadelphia & Reading Railway Company, will pay the income tax of one per cent five times. And the money received by the New York Central & Hudson River Railroad Company, through two intermediate corporations, from the Philadelphia & Reading Railway Company, will pay the income tax of one per cent four times. And the money

received by the Lake Shore & Michigan Southern Railway Company through one intermediate corporation, from the Philadelphia & Reading Railway Company, will pay the income tax of one per cent three times. And the money received by the Reading Company, from the Philadelphia & Reading Railway Company, will pay the income tax of one per cent twice. And the money received as net earnings by the Philadelphia & Reading Railway Company, but kept in its treasury instead of being transferred to the Reading Company, will pay the income tax of one per cent once.

The system of multiple corporate taxation, which will result from the income tax law, will be applied to each of the more than one thousand holding companies, which own all or nearly all of the stock of more than eight thousand subordinate corporations; and will also be applied, in turn, to each of those subordinate corporations; and again in turn to their subordinate corporations, from degree to degree of subordination, including the operating corporations which underlie them all.

Such a holding company is like the trunk of a tree, which sucks its sap from the remote ends of its rootlets, through its numerous roots and subroots. And the operation of the income tax, upon such a combination of corporations, is similar to what would occur, if all the sap transmitted from each rootlet of a tree, had to be taxed one per cent. of its volume, every time it passes from that rootlet, to a larger, and to a still larger root, upward on its way to the trunk of the tree.

The largest holding company, is the United States Steel Corporation, which has approximately one hundred subordinate corporations, of varying degrees of subordination. Assuming that the net income which will reach that holding company from its subordinate corpo-

rations, will amount to \$100,000,000, for the fiscal year ending June 30, 1914, that corporation will itself pay an income tax of \$1,000,000 on that net income. But the larger amount of money which will have constituted the aggregate net incomes of its operating subordinate corporations, will have paid an income tax of one per cent. out of the treasuries of those corporations. And what will have been thereupon left of those original net incomes, will also be taxed one per cent. as often, and to whatever extent it passes upward, through the treasury of an intermediate corporation, to the treasury of the United States Steel Corporation itself.

This plan of multiple corporate taxation is not described or even mentioned in the income tax law. But it is a logical and inevitable part of that law, from which none of the more than a thousand holding companies, and their more than eight thousand subordinate corporations, can escape, except by severing the bonds which respectively hold them together.

Congress and the President, did not establish this part of the income tax law, inadvertently. They knew what they were doing. They did it as a means of checking those violations of the Sherman Law, which those holding companies and their subordinate corporations, have been doing throughout many money-making years, and which have been too numerous and too extensive to be heretofore prevented or even much diminished, by the Sherman Law itself.

CHAPTER III.**INCOME TAX RETURNS.****SECTION 1.****PERSONAL INCOME TAX RETURNS.**

The statute provides that each person of "lawful age", who has received a taxable annual income of \$3,000 or more, during the last preceding calendar year, shall on or before March 1, 1914, and also on or before March 1, in each year thereafter, make, under oath or affirmation, a "true and accurate return" to the collector of internal revenue, for the district in which such taxable person resides or has his principal place of business; or in the case of a person residing in a foreign country, to the collector for the district in which his principal business is carried on in the United States; which true and accurate return, must set forth specifically the separate items which constitute his "personal gross income" for that calendar year; and also the total amount of those items; and also the items and the amounts, of such of the deductions which are specified in Section 2, or Section 3, of Chapter 1, of this pamphlet, as are justified by the facts of his case.

Where the income of a person under "lawful age", or subject to other legal disability, is in the custody or control and management of some person or corporation acting in a fiduciary capacity for that person; it is the duty of the party so acting, to make and render a true and accurate return of the income of that person, if his "personal taxable income" amounts to \$3,000 or more; which return must have all the characteristics that are specified in the first paragraph of this section, relevant

to a return made by a person of "lawful age" for himself. And where the income of a particular person under legal disability, is in the custody and control and management of two or more fiduciary parties jointly, any one of those parties may act alone, in making the required return for that person.

When any particular person knows, that if he were to make a true and accurate return to the collector of internal revenue, for himself or for any person under legal disability, that return would show that the person making it, or the person on whose behalf it would be made, had no "personal taxable income," during the last preceding calendar year, after all proper deductions, including \$3,000, would be subtracted from his "personal gross income"; no return whatever is required by the statute to be made to the collector of internal revenue in that case.

When the collector of internal revenue, or any deputy collector, has reason to believe that the personal taxable income which is specified in any return, is understated therein, he will give due notice to the person making that return, to show cause why the amount of that taxable income should not be increased; and upon the acquirement of proof of the extent of any understatement, the collector or deputy collector may increase that taxable income to that extent. From such an increase, the person making the return, may appeal to the Commissioner of Internal Revenue; and the Commissioner will decide the appeal, upon all the papers which were before the collector of internal revenue, and upon whatever sworn testimony of witnesses the appellant may submit to the Commissioner.

SECTION 2.

CORPORATE INCOME TAX RETURNS.

The statute provides that any corporation, joint stock company, association, or insurance company, which is subject to the income tax law, may make its income tax returns for successive calendar years, or for its chosen fiscal years, at its option; and that, if it chooses to go by calendar years, it shall make its "true and accurate return", on or before the first day of March of each year, for the preceding calendar year; and that if it chooses to go by fiscal years, it shall make its "true and accurate return" within sixty days after the close of each fiscal year, for that fiscal year.

The statute also provides that the "true and accurate return" of each corporation, joint stock company, association or insurance company, shall be made under the oath or affirmation of its president, vice-president or other principal officer, and its treasurer or assistant treasurer; to the collector of internal revenue for the district in which that organization has its principal place of business; and that every such "true and accurate return" shall state the following facts relevant to the business of the organization making it:

FIRST: The total amount of its paid up capital stock outstanding; or if it has no capital stock, its capital employed in business at the close of the year covered by the report.

SECOND: The total amount of its bonded and other indebtedness, at the close of the year covered by the report.

THIRD: In the case of an American organization, the gross amount of its income, received from all sources during the year covered by the report; and in the case

of a foreign organization, the gross amount of its income, received during the year covered by the report, from capital invested and business transacted in the United States.

FOURTH: In the case of an American organization, the total amount of its ordinary and necessary expenses, paid out of earnings in the maintenance of its business and property, during the year covered by the report, stating separately all rentals or other payments, required to be made as a condition to the continued use or possession of property; and in the case of a foreign organization, the same facts relevant to its business transacted in the United States, during that year.

FIFTH: In the case of an American organization, the total amount of all losses, actually sustained during the year covered by the report, and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property; and in the case of a foreign organization, all losses actually sustained by it during the year covered by the report, in business conducted by it within the United States, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property.

SIXTH: In the case of an American organization, the amount of interest accrued and paid within the year covered by the report, on its bonded or other indebtedness, not exceeding one half of the sum of its interest bearing indebtedness and its paid up capital stock, outstanding at the close of that year; or, if it has no capital stock, then the amount of interest paid within that year, on an amount of indebtedness, not exceeding the amount of capital employed in the business at the close of that year; and in the case of a bank, banking association or trust company, stating separately all interest paid within that year, on deposits.

In the case of a foreign organization, the facts relevant to interest, which the statute requires to be stated, in its "true and accurate return," are so ambiguously defined in the statute, that recourse must be had to the form of return, to be hereafter prescribed by the Commissioner of Internal Revenue, for information of the precise character of those facts. What the statute says on that subject, is printed in the language which begins with the second word from the end of line 9, and ends with the sixth word from the beginning of line 21, of page 123, of that copy of the statute which comprises the appendix to this pamphlet.

SEVENTH: The amount paid by it during the year covered by the report, for taxes imposed under the authority of the United States, and separately the amount paid during that time by it, for taxes imposed by the Government of any foreign country.

The statute also provides that every insurance company shall report the net addition, if any, required by law to be made within the year covered by the report, to its reserve funds, and shall also report whatever sums, other than dividends, it has paid within that year, on insurance contracts or on annuity contracts.

The statute also contains, in respect of all American and all foreign life insurance companies, a provision that such a company shall not include as income in any year, such portion of any actual premium, received from any individual policyholder, as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder within such year.

The statute also provides, in respect of all American and all foreign mutual fire insurance companies, which require their members to make premium deposits to provide for losses and expenses, that they shall not return

as income, any portion of those premium deposits which they shall have returned to their policyholders; but shall return as taxable income, all income received by them from all other sources, plus such portion of the premium deposits, as are retained by the companies, for purposes other than the payment of losses and expenses and reinsurance reserves.

The statute also contains, in respect of all American and all foreign mutual marine insurance companies, a provision that they shall include in their return of gross income, the gross premiums collected and received by them, less the amounts paid by them for reinsurance; but that those companies shall be entitled to include in their deductions from gross income, the amounts repaid to policyholders on account of premiums previously paid by them, together with whatever interest has been paid upon such amounts between the ascertainment thereof, and the payment thereof.

The statute also provides that every corporation, joint stock company or association or insurance company, shall state in its "true and accurate return" its net income, after making the deductions authorized by Subsection G of the statute; which are the deductions specified, in respect of American organizations, in Section 3 of this chapter of this pamphlet, and which deductions, in respect of foreign organizations, are those specified in Section 3 as modified by Section 4 of this chapter; and all of which deductions are provided for in paragraph b of Subsection G of the statute; and which paragraph is printed on pages 115 to 119 inclusive, of that copy of the statute which constitutes the appendix to this pamphlet.

CHAPTER IV.

INCOME TAX ASSESSMENTS.

SECTION 1.

COLLECTING DATA FOR ASSESSMENTS.

Though the income tax law provides that every person, corporation, joint stock company, association and insurance company, which ought to pay an income tax, shall furnish the proper foundation for its assessment, by making a proper income tax return for each calendar year, or for each fiscal year, as the case may be, and delivering that paper to the proper collector of internal revenue, within two months after the end of the year which it covers; that law contemplates the possibility that the performance of that duty, will be omitted in some cases, unless it is prompted by the danger of some penalty, or by the action of some official person.

The penalty which the statute prescribes to be inflicted upon any person, who ought to make an income tax return for any particular calendar year, on or before March 1, of the next year, but who neglects or refuses to do so, is a fine of not less than \$20, nor more than \$1,000. And the statute provides that any such person who, with intent to defeat or evade the assessment required by the statute, makes his return false or otherwise fraudulent, is guilty of a misdemeanor, and shall be fined not exceeding \$2,000, or be imprisoned not exceeding one year or both, at the discretion of the court, with the costs of prosecution.

Any corporation, joint stock company, association or insurance company, which ought to make an income return for any calendar year or fiscal year, but which neglects or refuses to do so, within the time or times specified

in the statute, or which renders a false or fraudulent return, is subjected by the statute to a penalty not exceeding \$10,000. And the statute provides that any officer of any corporation, who is required by law to make, render, sign or verify any income tax return, on behalf of that corporation, and who makes any false or fraudulent return or statement, with intent to defeat or evade the assessment required by the statute, is guilty of a misdemeanor, and shall be fined not exceeding \$2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Those provisions of the statute which are stated in the last two paragraphs, comprise the substance of Subsection F, and of the last paragraph of Subsection G, of the statute. But those parts of the statute must be read and construed in connection with those parts of Subsection I, of the statute, which contain Sections 3173, and 3176, of the Revised Statutes of the United States, in the extended forms into which those two sections are amended by the income tax statute. The relevant provisions of those two amended sections of the Revised Statutes are as follows:

If any person, who ought to make an income tax return, for any particular calendar year, on or before March 1, of the following year, fails to do so, but consents to disclose to the proper collector of internal revenue, or his deputy, all the facts which ought to be stated in that return; it is the duty of that collector or deputy collector, to make out such a return as will properly state those facts, which paper being distinctly read by or to, and consented to, and signed and verified by, the person required to make it, shall be received and treated as his own return.

In case no annual income tax return has been rendered by a person who ought to do so, as required by the

statute, and in case that person is absent from his or her residence or place of business, at the time the collector or deputy collector calls there to get the required return; it is the duty of that collector or deputy collector to leave at that place, with some person of suitable age and discretion, if any such person is present, or otherwise to deposit in the nearest post office, a note or memorandum, addressed to the person who ought to make the return, requiring him or her to render, to such collector or deputy collector, the required return, verified by oath or affirmation, within ten days from the date of such note or memorandum. If thereupon, that person fails to render such a return within that time, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any understatement, the collector may summon that person, or any other person, to appear before him at a time and place named in the summons, and to produce any and all relevant account books, and to give any proper sworn testimony, relevant to the question of the honesty or dishonesty of the return under investigation. To enable the collector to make that investigation thoroughly, the statute provides that he may summon any person, found within the state in which his district lies; and that when any person whom he wishes to summon, can not be found in that state, that the collector may enter any other collection district in the United States where that person can be found, and may there require him to furnish whatever testimony and other evidence he can supply, relevant to the correctness or incorrectness of the return, which in the opinion of the collector, may be false or fraudulent or otherwise erroneous. To enable the collector of internal revenue to enforce this requirement, the statute confers jurisdiction upon the District Courts of the United States, to compel

obedience to any such summons, after being properly issued and served, by any collector of internal revenue.

When any person, corporation, company or association, refuses or neglects to render an income tax return as required by law, or renders a false or fraudulent return, the proper collector of internal revenue, or any deputy of his, shall make a return for the person or organization in default, according to the best information which that collector or deputy collector can obtain. And the return so made, when subscribed by such collector or deputy collector, will be held to be *prima facie* good and sufficient, for all legal purposes.

In case the default consisted in intentional fraud or falsehood, it will be the duty of the Commissioner of Internal Revenue, when he comes to assess the income tax, upon the return which has been made by the collector of internal revenue for the party guilty of that fraud or falsehood, to add one hundred per cent to the amount of the tax called for by the face of that return.

In case the default consisted in omission to make any return by reason of sickness or absence, the collector, before making a return himself, for the party in that default, may extend the time allowed by the statute to that party for making his return, but that extension can not exceed thirty days.

In case the default consisted in refusal to make any return, or in neglect to do so for any other cause than sickness or absence, it will be the duty of the Commissioner of Internal Revenue, when he comes to assess the income tax, upon the return which has been made by the collector of internal revenue for the party chargeable with that default, to add fifty per cent to the amount of the tax called for by the face of that return.

And in any case, whatever amount is thus added by the Commissioner of Internal Revenue to the amount of

tax called for by the face of the return, will be collected at the same time and in the same manner as the unincreased tax itself; except where the cause for the increase is discovered after the unincreased tax has been paid, in which case the amount added will be collected in the same manner as the original tax.

The income tax statute also amends Section 3172, of the Revised Statutes of the United States, in such a way as to make it the duty of every collector of internal revenue, from time to time, to cause his deputies to proceed through every part of his district, and inquire after and concerning, all persons therein, who are liable to pay any internal revenue tax. Wherever and whenever such a person is thus discovered, the collector of internal revenue will call upon him to make and deliver a proper income tax return for himself. Whereupon it will be the duty of that person to proceed so to do, in accordance with those provisions of the statute which are explained in Chapter 3 of this pamphlet.

SECTION 2.

MAKING ASSESSMENTS OF INCOME TAXES.

The income tax law provides that all assessments of taxes thereunder shall be made by the Commissioner of Internal Revenue, and that all persons shall be notified of the amounts for which they are respectively assessed on or before the first day of June of each successive year, and that those amounts are to be paid before the end of that June.

The statute also provides that when any income tax remains due and unpaid after the end of June in any year, the collector of internal revenue having jurisdiction of the case, shall furnish to the party in default, a notice

thereof, and a demand that the unpaid tax shall be paid forthwith; and that if the non-payment continues ten days longer, five per cent of the unpaid amount shall be added thereto; and that one per cent shall be added thereto, at the end of every calendar month after the month of June in which the tax became payable. On this point, the statute makes an exception in favor of the estates of insane, deceased or insolvent persons; so that in those cases, neither the five per cent addition, nor the one per cent addition is authorized to be made.

But the statute also provides, that in any case wherein no return has been made for a particular year, and in any case wherein the Commissioner of Internal Revenue discovers after the tax has been paid upon a particular return, that that return was false or fraudulent, the Commissioner may make a return for the party in default, at any time within three years after a true and accurate return was due from that party, and may make that return, according to the best information which he can obtain, and may thereupon assess the proper income tax upon the return so made by him; which income tax must be paid by the person or persons against whom it is thus assessed, immediately upon notification to them of the amount of such assessment.

The statute also provides that the Commissioner of Internal Revenue, when making an assessment of a personal income tax for the year 1913, shall charge the person being assessed with only five-sixths of whatever amount of income tax appears to be called for by the income tax return for that year in that case. Thus the statute makes the income tax law retroactive as far back as March 1, 1913, but no further. As to all calendar years after 1913, the statute provides that all personal income taxes, shall be assessed for those years separately.

The statute also amends Section 3167, of the Revised Statutes of the United States, so as to make it prohibit all collectors, deputy collectors, agents, clerks, or other officers or employees of the United States, from divulging, in any manner not provided by law, to any person whatever, any operation, style of work, or apparatus of any manufacturer or other producer, visited by him in the discharge of his official duties; and also from likewise divulging the amount or source of any income, profit, loss, expenditure, or any particular thereof, which is disclosed in any income return of any person or corporation; and also from permitting any income return or copy thereof, or any book containing any abstract or particular thereof, to be seen or examined by any person, except as provided by law. And the same section of the Revised Statutes as thus amended, makes it unlawful for any person to print or publish in any manner whatever, not provided by law, any income return or any part thereof, or the amount or source of any income, profit, loss, or expenditure appearing in any income return. And the same section as thus amended, provides that whoever violates any of its prohibitions is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and that if the offender is an officer or employee of the United States, he shall be dismissed from office, and be incapable thereafter of holding any office under the Government.

But the income tax statute also provides in paragraph d of Subsection G, that after the income tax in a particular case has been assessed by the Commissioner of Internal Revenue, the income tax return in that case, together with any correction thereof which may have been made by the Commissioner, shall be filed in his office, and shall constitute a public record; but that those papers

shall not be open to inspection, except upon the order of the President of the United States, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President; except that the proper officers of any State which imposes a general income tax, may upon the request of the Governor of that State, have access to such return, or to an abstract thereof, so far as to learn therefrom the name and income of each corporation, joint stock company, association or insurance company which may be or may become subject to income taxation in that State.

CHAPTER V.

TERRITORIAL SCOPE OF THE STATUTE.

The States which co-operated, through their delegates, in framing the Constitution of the United States in 1787, were New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia. But the States, which ratified that Constitution, and thus originally constituted the nation, which is named in the Constitution as the "United States of America," and which established in 1789, the constitutional government of that nation, included only eleven of the twelve, whose delegates had participated in framing the Constitution two years before. For North Carolina declined to join in establishing that government, and only eleven States became members of the newly established United States of America, until some time after Washington was inaugurated as the first president of the new nation.

During the first one hundred and twenty-three years after Washington's inauguration, as president of the

then eleven United States of America, thirty-seven other States were admitted into that union; so that now in 1913, the United States of America is a nation composed of forty-eight States.

The income tax law primarily applies to all of those forty-eight States, without any deviation from uniformity; except so far as deviation from uniformity of result, may be caused by deviation from uniformity of income among the persons and organizations which may happen to reside or be taxed in one State or another.

The United States as a nation, is the paramount owner of many parts of the surface of the earth, which are separated from each other, by oceans or by parts of oceans. Congress derives its power to legislate for those parts of the earth's surface, from paragraph 16, of Section 8, of Article I, and from paragraph 2, of Section 3 of Article IV of the Constitution of the United States.

The principal areas and islands which are now the paramount property of the United States, are designated in the statutes of the United States, as follows, respectively.

The "District of Alaska," which was ceded to the United States by Russia in 1867.

The "District of Columbia," which, during Washington's administration, was ceded to the United States by the State of Maryland.

The "Territory of Hawaii," which comprises the Hawaiian Islands, which formerly constituted the Republic of Hawaii, but which were annexed to the United States by act of Congress in 1898.

The "Philippine Islands," which were acquired by the United States from Spain in 1898.

"Porto Rico," which comprises the island of Porto Rico and the adjacent islands, lying east of the seventy-

fourth meridian of west longitude, all of which were ceded to the United States by Spain in 1898.

All these five possessions are subject to the income tax law. That subsection is uniform in respect of the operation of the statute upon persons, and organizations to be taxed, and in respect of the methods of ascertaining the incomes and assessing the taxes of those classes of taxpayers respectively. For Subsection H, of the statute provides that the word "State" or "United States" when used in the statute, shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico and the Philippine Islands, when such construction is necessary to carry out its provisions.

But Subsection M of the statute provides that the administration of the income tax law and the collection of the income taxes, in Porto Rico and the Philippine Islands, shall be by the appropriate internal revenue officers of those governments; and that all income taxes collected in Porto Rico and the Philippine Islands, shall accrue to the general governments of those two possessions, respectively; and that the jurisdiction which the statute confers upon the District Courts of the United States, in the forty-eight States, is vested in the courts of first instance of the Philippine Islands, in respect of the administration of the income tax law in those islands; and that the compensations paid to officials of the District of Columbia, Porto Rico, or to officials of the Philippine Islands, or any political subdivision thereof, are subject to the income tax law. In this respect, those compensations agree with the compensations of all officers of the United States, except the President and the Federal judges who were in office on October 3, 1913; while they disagree with the compensation, of all officers and employees of any State or any political subdivision thereof,

except where such an officer or employee is paid by the United States.

CHAPTER VI.

ADMINISTRATIVE PROVISIONS.

SECTION 1.

RELEVANT TO INCOME TAXES COLLECTED AT THEIR SOURCES.

Subsection J of the income tax statute provides that it is the duty of every collector of internal revenue to whom any payment of income tax is made, to give to the person making that payment, a written or printed receipt, stating the amount paid, and the particular account for which it is paid; and that, when required by any person paying any income tax as a debtor on behalf of separate creditors, any collector of internal revenue shall give a separate receipt to that debtor, for each tax thus paid by him; and that each separate receipt shall be in such form, that the debtor can conveniently and separately present it to the creditor to whose tax it refers, in satisfaction of his debt, to the amount specified in such receipt. And this subsection of the statute also provides that such a receipt shall be sufficient evidence in favor of such a debtor, to justify him in withholding the amount expressed therein, from his next payment to that creditor; but that such creditor may require the surrender to him of that receipt, upon giving to that debtor a written receipt, acknowledging the payment to him, of whatever sum of money, he may have actually received from the debtor, and accepting the collector's income tax receipt, as part payment of the debt due to him.

SECTION 2.

RELEVANT TO GENERAL ADMINISTRATION.

Subsection L, of the income tax statute, provides that all administrative, special and general provisions of law, including all laws in relation to the assessment, remission, collection and refunding of internal revenue taxes, not specifically repealed prior to October 3, 1913, and not inconsistent with the provisions of the income statute, are applicable to all the provisions of that statute, and to the taxes imposed thereby.

Subsection N, of the statute appropriates a large sum of money, and makes many administrative arrangements, for the execution of that law, by the Commissioner of Internal Revenue, under the general direction of the Secretary of the Interior. That subsection is printed in two long paragraphs, on pages 131 and 132 of the appendix to this pamphlet; wherein it will be seen that the power of the Commissioner of Internal Revenue to appoint one deputy commissioner, and all necessary officers, agents, inspectors, deputy collectors, clerks, messengers, janitors and other employees, to act under him, in executing the income tax law, is unlimited; except that it is to be exercised with the approval of the Secretary of the Treasury, and except that the salaries and wages to be paid to the persons appointed, are specifically limited in some cases, and in other cases are limited to the rates of compensation now being paid for similar work, in the internal revenue service.

CHAPTER VII.

THE CORPORATION TAX LAW OF 1909.

The United States tax law which was approved by President Taft August 5, 1909, was like the United States tax law which was approved by President Wilson October 3, 1913, in being mainly devoted to regulating commerce with foreign nations, by means of tariff enactments, applicable to imports of commodities. But that tax law of 1909, instead of containing any provision for income taxes, by that name, as does the tax law of 1913 in its Section II, did contain an elaborate system of provisions for excise taxes, with respect to any doing of business, by corporations, joint stock companies, associations and insurance companies, in any State or Territory of the United States, or in Alaska or in the District of Columbia. That system of provisions was made in Section thirty-eight, of the tax law of 1909, and was there formulated in eight subsections.

Now subsection S, of Section IV, of the tax law of October 3, 1913, expressly repealed the whole of the tax law of August 5, 1909, with some Provisos, which are operating to retain that statute in force, in some of its parts, to some extent, and for some purposes.

Among those Provisos, is one which enacts that all excise taxes, provided for by Section thirty-eight of that statute, which accrued or were imposed for the year 1912, shall be attended to and collected, in the same manner and under the same provisions, liens, and penalties as if that section had continued in force.

Another of those Provisos enacts that an excise tax with respect of doing business, equivalent to one per cent upon their respective net incomes, shall be levied, assessed and collected, upon all corporations, joint stock

companies, associations and insurance companies, of the character described in said Section thirty-eight, for the months of January and February, 1913; which tax shall be computed upon one-sixth of the respective net incomes of the said organizations for the year 1913, and which net incomes are to be ascertained in accordance with the provisions of Subsection G, of Section II of the tax statute of October 3, 1913, and which Section II, is the income tax portion of that statute.

Another of those Provisos is one which enacts that the provisions of said Section thirty-eight of the tax statute of August 15, 1909, relative to the collection of taxes therein imposed, shall remain in force, for the purpose of the collection of the said excise taxes, for the months of January and February, 1913; except that any corporation, joint stock company, association or insurance company, may include in one return, a report of its income for January and February, 1913, and a report of its income for the last ten months of that year; and that the Commissioner of Internal Revenue may use that return, as the basis of his assessment of the excise tax upon that organization for the first two months of 1913, and may also use it as the basis of his assessment of the income tax upon that organization, for the last ten months of that year.

INSERTION.

A CRITICISM OF THE SPEER PAMPHLET.

On the third day after President Wilson signed the Federal tax law of 1913, including the Federal income tax law, the Corporation Trust Company of 37 Wall Street, New York City, published a pamphlet, which it had procured to be written and compiled by Luther F. Speer. He was then the head of the Corporation Tax Division of the Internal Revenue Department of the United States Treasury; but on October 8, 1913, he was, with the approval of the Secretary of the Treasury, appointed by the Commissioner of Internal Revenue, to be the deputy commissioner, who is to represent the Commissioner of Internal Revenue, in the performance of the functions imposed by the income tax law, upon that officer of the Government.

That Speer pamphlet comprises 107 pages, the last thirty of which constitute a substantially true copy of Section II, of the Federal tax law of October 3, 1913; plus a substantially true copy of those portions of Section IV, of that tax law, which relate to the corporation tax law of August 5, 1909. There is no error in that copy of that Section II, except one which does not affect the meaning of the sentence in which it occurs. And there is no error in the Speer pamphlet copy of part of that Section IV. except that it is headed "Section V."

Pages 66 to 77, of the Speer pamphlet are devoted to a list of the locations of the offices of the sixty-three internal revenue collection districts, into which the forty-eight States and the Territory of Hawaii, and the District of Alaska are divided; and that list also sets forth the States and the counties or other political subdivisions of States, which comprise those districts respectively; the Territory of Hawaii being, however, a district by

itself, and Alaska being included with the State of Washington, as one district.

Pages 7 to 65, of the Speer pamphlet, are devoted to an analysis and explanation, written by him, of what he understands to be those provisions of the income tax law, which constitutes Section II. of the Federal tax law of October 3, 1913, and which income tax law is printed on pages 78 to 106 of the Speer pamphlet.

Mr. Speer's analysis and explanation of the provisions of the income tax law, is a work which derives its importance from the fact that he is the officer of the United States Government who is charged with the administration of that statute, everywhere except in Porto Rico and the Philippine Islands. This importance is so great, that the many hundreds of thousands of persons and corporations who are liable to be taxed under that statute, are entitled to whatever benefit they may derive, from any candid criticism which may be made of Mr. Speer's interpretation of the law, which Congress has enacted, and which is as binding upon Mr. Speer, as it is upon any other person, or on any corporation. And I who have subjected Mr. Speer's pamphlet to a critical analysis, with the result of discovering its non-conformity to the statute in a number of important respects, believe it to be my duty to disclose the errors which I have discovered. Those errors are the following:

FIRST.—In respect of the interest upon the obligations of a State or any political subdivision thereof, and the interest upon any obligations of the United States or its possessions; the Speer pamphlet takes the ground, that any corporation which receives any such interest (by reason of being the holder of any United States bond, State bond, or municipal bond, or any other obligation of the United States, or any of its possessions,

or of any State or of any subdivision thereof), is subjected, by the income tax statute to an income tax of one per cent upon that interest.

If this had been a provision of the statute it would have subjected many of the insurance companies, banks, trust companies and other corporations of the United States, to resulting taxes, amounting to several millions of dollars each year. And such a provision would permanently operate, through those corporations, to tax every State government and every municipal government between the two oceans and also likewise tax the government of every county or other political subdivision of a State, which may hereafter be obliged to sell its bonds to corporations.

But the Speer pamphlet is out of conformity with the statute on this subject. For the sixth paragraph of the statute (which is printed in the upper half of page 105 of that copy of the statute which constitutes the appendix to this pamphlet, and which is printed in the upper half of page 82 of the Speer pamphlet) provides: "That in computing net income under this section there shall be excluded the interest upon the obligations of a State or any political subdivision thereof, and upon the obligations of the United States or its possessions." And the word "section" in this place, as in every other place where it occurs in the income tax statute, signifies that entire statute; for that entire statute is Section II, of the Federal tax law of October 3, 1913.

SECOND.—The Speer pamphlet, on page 12, contains the following sentence: "Persons receiving fees or emoluments for professional or other services, as in the case of physicians or lawyers, should include actual receipts for services rendered in the year for which return is made; together with all unpaid accounts, charges for

services or contingent income due for that year, if the same are considered good and collectable."

The idea that the statute obliges a lawyer or a doctor to somehow raise money with which to pay, during the month of June of each calendar year, an income tax upon the as yet unpaid fees which he earned during the preceding calendar year, even though he has not received and may never receive payment of those fees, is an extraordinary idea, which can not be supported by reference to the statute. On the contrary, the statute provides, in the third paragraph that the items which are to be included in the gross income of a person, are such items of gains, profits, and income as that person "derived" from any source whatever. In the English language, the verb "derive" is a synonym of the verb "receive"; and the adjective "derivable" is a synonym of the adjective "receivable". If the statute had used, in its third paragraph, the adjective "derivable," or the adjective "receivable" Mr. Speer's pamphlet would have been right on this point. But as the statute never uses any such word as "derivable" or "receivable" in respect of the items of the gross income of any person; it was a plain error for Mr. Speer to interpret the statute as if it had used one or the other of those adjectives, in that connection. Mr. Speer's erroneous idea on this point appears to have entered his mind from the word "accruing," where it appears in the first paragraph, and also in the eighth paragraph, of the statute, in reference to the "net income" of a person. But in both those places, and everywhere else in the statute, where the word "accruing" is similarly used, the implication is that a net income "accrues" from a gross income; though the gross income is everywhere said to be "derived" or "received" as money from the various sources of money, which are specified in the statute. The statutory use of

the word "accruing," is accurately proper; for the net income to which it is applied does "accrue" from the gross income, through a process of successive deductions which is prescribed by the statute, as the proper method of ascertaining the amount of the net income which accrues from the gross income.

THIRD.—The Speer pamphlet on page 12 contains the following sentence: "Debts may be considered to be found worthless, only after legal proceedings to recover the same have proved fruitless, or it is clearly evident that the debtor is insolvent, and that proceedings to collect the debt would avail nothing." This would be an absurd provision to put into the statute, for legal proceedings to recover a debt could not be "proved fruitless" without the expenditure of more money than the creditor could afford, and without the passage of months or even years during the litigation. And nothing but litigation would make it "clearly evident" that a debtor is insolvent, and that proceedings to collect the debt would avail nothing. Fortunately, this idea of Mr. Speer has no foundation in the statute; for the statute clearly authorizes debts due to the taxpayer, to be deducted from his gross income, in ascertaining his net income, whenever such a debt is ascertained, to the satisfaction of the taxpayer, to be worthless, and is thereupon "charged off" by him from his account books.

FOURTH.—The Speer pamphlet on page 12, contains the following sentence: "The interest accrued during the year on notes, bonds, or other evidence of indebtedness, if good and collectable at the end of the year, should be returned as income, whether actually collected or not. Accrued interest means interest due and payable." Mr. Speer's error on this point consists in implying that the

statutory word which characterizes whatever interest is to be included in gross income is the word "accrued;" whereas the word which the statute really uses in that behalf is the word "derived."

FIFTH.—On page 15, of the Speer pamphlet, its author correctly quotes the statutory provision for the second deduction to be made from gross income when ascertaining net income, as follows: "All interest paid within the year by a taxable person on indebtedness." But the author undertakes to limit that statutory language, by saying that it should not include any interest paid within the year, which was payable in some previous year, though actually paid within the year referred to by the statute. In order to make the statute convey Mr. Speer's idea, it would have to be amended by inserting after the word "year," the words "and not payable in any previous year." Neither Mr. Speer nor anybody else, has any authority to amend the statute by any such limitation.

SIXTH.—The Speer pamphlet on page 15, contains the following sentence: "While the law reads that all taxes of the nature mentioned, which are paid within the year are deductible, it will require a ruling of the Treasury Department to determine whether such payments will be limited to the taxes falling due within the year for which return is made, or whether the payment of accumulated taxes which were due in previous years will also be allowed as deductions." This statement is erroneous, in expressing the idea that the Treasury Department has power to make a ruling to insert in the statute, a limitation which is absent and which is admitted to be absent from the statute itself.

SEVENTH.—Page 18, of the Speer pamphlet, among other things in its first paragraph, states that certain official compensations are exempt from the income tax, among which are said to be “the compensations of all officers and employees of a State or any political subdivision thereof.” But the statute contains an exception to this exemption. That exception covers all cases, wherein the compensation of any officer or employee of any state or political subdivision thereof, is paid by the United States Government, as plainly appears at the end of the sixth paragraph of the statute.

EIGHTH.—The Speer pamphlet on page 33 contains the following paragraph: “The language of the law providing that the net income to be reported shall include accruals as well as actual income, will also dispose of many troublesome questions as to what shall be reported as income, in the return of annual net income.” The error in this statement consists in implying that the “accruals” of net income, to which the law refers are accruals of rights to receive gross income; whereas they are really expressed in the statute as being “accruals” of net income from gross income. Mr. Speer is entirely mistaken in construing the statute to mean that it proposes to extort income taxes from persons, on all moneys which they were entitled to receive during a particular calendar year, even though they did not receive them during that year, and even though they may never receive them at all.

NINTH.—Page 37, of the Speer pamphlet contains the following sentences: “The returns of corporations must show the gross income derived from the business, properties and every other source, and the allowable deductions therefrom will determine the amount of net income.

Gross income must show the income arising or accruing from all sources during the preceding calendar or fiscal year." These two sentences show that Mr. Speer construes the word "accrue" as if it were a synonym of the word "derive," which it plainly is not. For a sum of money accrues when it becomes receivable, but it is not derived until it is received. The statute properly uses the words "derived" and "received" as synonymous. For where and when it defines the gross income of a person, from which his taxable net income "accrues" by a process of successive deductions, it speaks of that gross income as being "derived from any source whatever." And when and where it defines the gross income of a corporation from which its taxable net income "accrues" by a process of successive deduction, it speaks of that gross income as "received from all sources." That statutory use of the word "derived" can be found in line 14, and also in 22 of page 103 of that copy of the statute which constitutes the appendix to this pamphlet; while that statutory use of the word "received" can be found in line 18 of page 115 of the same copy of the statute.

TENTH.—Another instance wherein Mr. Speer misquotes the statute by substituting his word "accruing" for the statutory word "received," occurs in the third paragraph of page 52 of the Speer pamphlet. On that page Mr. Speer begins his account of the eight parts of a statutory income tax return to be made by corporations. That account literally copies from the statute, the first of those eight statutory parts. But instead of copying the third of those eight statutory provisions, the Speer pamphlet alters it by substituting the words "arising or accruing" for the word "received," in each of both places where the statute uses the word "received" to designate the gross income which it requires each cor-

poration to report. Thus it again appears that Mr. Speer has determined to create apparent authority for himself, to levy an income tax upon money which a corporation was entitled to receive, but did not receive during the year covered by the tax. To that end, when purporting to quote the statute literally, he altered the statutory language, in the third paragraph of that page, by substituting the words "arising or accruing" for the word "received," in two places in that paragraph. But there was no more accuracy maintained in making that alteration, than would be involved in the president of a national bank including "bills receivable" among the items of "cash on hand" in making up a report to the Controller of the Currency.

ELEVENTH: The fourth paragraph of page 52, of the Speer pamphlet purports to state the fourth part of such a corporate income tax return, as is prescribed by the statute to be made by each corporation, joint stock company, association or insurance company, which is subject to the income tax law. These statutory parts of such a report are all described in paragraph c of subsection G of the statute, under regularly numbered heads from first to eighth, inclusive. But the fourth of those parts is misquoted on page 52 of the Speer pamphlet. In respect of American corporations, the statute provides that such a corporation shall report the total amount of all its ordinary and necessary expenses, paid out of earnings, in the maintenance and operation of its business and property; but the Speer pamphlet alters the word "paid" to the word "incurred," and omits the statutory limitation relevant to earnings. So also in respect of foreign corporations, the Speer pamphlet alters the statutory word "paid" to Mr. Speer's word "incurred."

TWELFTH: The paragraph which occupies the lower half of page 52, and the upper half of page 53, of the Speer pamphlet, purports to be a paraphrase of the statutory provisions relevant to the fifth part of a corporate income tax return. Those statutory provisions are printed on pages 121 and 122, of that copy of the statute which constitutes the appendix to this pamphlet; and that printing begins with the word "fifth" in line 9 of page 121, and ends with the word "year," in the second line from the bottom of page 122. That fifth part of a corporate tax return relates to losses during the year covered by such return. But the Speer definitions of those losses are substantially different from the statutory definitions thereof. Thus where the statute deals with "all losses actually sustained," the Speer pamphlet represents it as dealing with "all losses actually sustained or ascertained." This difference between the statute and Mr. Speer's account of the statute, relevant to the fifth part of a corporate tax return, is not the only such difference; but it is particularly noteworthy, because the Speer pamphlet erroneously represents the statute as requiring a corporation to report all losses "ascertained" during the year covered by a report, regardless of whether those losses were incurred in that year, or in some earlier year or years or even in the last century.

THIRTEENTH: Pages 56, 57 and 58 of the Speer pamphlet, contain six consecutively numbered paragraphs, relevant to the duty of corporations, with respect to paying income taxes of other parties, where the incomes upon which those taxes are based, have their sources in those corporations, respectively. The fourth of those paragraphs represents the statute as providing that no return of income not exceeding \$3,000, shall be required in any such case. This is wrong. For the third proviso

in the third paragraph of subsection E of the statute, and paragraph 4 of that subsection, do provide that such a return shall be made, and that such a tax shall be paid, in any such case, although the income involved does not amount to \$3,000; where that income arose from interest upon bonds, mortgages or deeds of trust, or similar obligations of any corporation, joint stock company, association or insurance company, or from either of two other classes of sources which are specified in that behalf, in the statute. The statutory provisions on this subject are printed on pages 111 and 112 of that copy of the statute which constitutes the appendix to this pamphlet, beginning with line 8 of page 111 and ending with line 27 of page 112. And the same provisions are printed on pages 87 and 88 of the Speer pamphlet, beginning with line 23 of page 87, and ending with line 38 of page 88.

FOURTEENTH: The Speer pamphlet, in four paragraphs, beginning with line 8 from the bottom of page 37, and ending with line 7 from the top of page 39, takes the ground that any increase in the value of the property of a person or corporation during a particular year, constitutes taxable income for that year. Mr. Speer supports this contention for the following "reasons": "First, the law provides that accrued income shall be reported: Second, an allowance for depreciation of property is made."

The first of these "reasons" is destitute of foundation; for the gross income of a person or corporation, according to the statute, does not include anything but income "derived" or "received," and because, according to the statute, the net income of a person or corporation includes nothing not included in the gross income thereof.

The second of Mr. Speer's "reasons," is destitute of foundation in logic; for the depreciation of property which is allowed for by the statute, is expressly confined to physical depreciation, due to depletion or exhaustion, or to wear and tear, arising out of the use or employment of property. There is no analogy, by way of contrast or otherwise, between the statutory allowance for physical depreciation of property, and Mr. Speer's proposition to charge the owner of property with every increase in the value of property, as if that increase were income which ought to be taxed.

Property may decrease in physical value, or it may decrease in market value without decreasing in physical value. On the other hand, very few kinds of property ever increase in physical value, except as a result of expenditure of other property thereon. But Mr. Speer if permitted, will tax an increase of the market value of a piece of property, as if it were income; and he undertakes to justify such taxation by an argument from analogy; which argument he draws from the fact that the statute allows deductions from incomes, on account of decreases in physical value of property. But the supposed analogy being absent, the conclusion drawn therefrom is logically vitiated.

But Mr. Speer is the Government official who is charged with the administration of the income tax law; and therefore his view of this subject must be taken seriously. Thus taken, it is proper to think up how it would work in particular cases. It would work as follows in such a case as the following:

During the year 1909, the market value of a thousand shares of the common stock of the Union Pacific Railroad Company increased from \$172,500 to \$219,000. According to Mr. Speer's view of the income tax law, if that statute had been in force for the year 1909, any person who

then owned a thousand shares of that stock, without any desire to sell any of it, and without any money with which to buy any more of the same kind of stock, would have been charged by the collector of internal revenue with \$46,500, as income on that stock, and would have been compelled to pay \$465 as income tax thereon. But before that \$465 would have to be paid on June 30, 1910, the market value of that thousand shares of stock decreased to \$152,250; so that when the income tax of \$465, would have to be paid on account of the increase in the value of that stock which occurred in 1909, that entire amount of increase and \$20,250 in addition thereto, would have been wiped out from the market value of the stock. And all this would have happened to a particular piece of property, the actual income from which is expressly exempt from the income tax law; that actual income being a dividend of \$10,000, paid to the owner of the stock, by the Union Pacific Railroad Company out of its net earnings, after those net earnings had themselves paid an income tax of one per cent to the United States.

I could state many other examples of how unjustly Mr. Speer's plan to assess income taxes on increases in the market value of property would work. But I forbear. So many such examples will occur to every property owner who reads this pamphlet, that he will be sufficiently alarmed of his own accord, to try to do something toward diverting the executive government of the United States, from placing upon the income tax statute, any such surprising and injurious construction, as that which Mr. Speer advocates, relevant to what he calls "Income from Increased Property Values."

The foregoing fourteen errors of Mr. Speer, if uncorrected by him, or by his superior officer, will cost the corporations and the people of the United States more than fourteen million dollars every year.

APPENDIX.

AN ACT

To reduce Tariff Duties, and to provide Revenue for the Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :

SECTION II.

A. *Subdivision 1.* That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere.

Subdivision 2. In addition to the income tax provided under this section (herein referred to as the normal income tax) there shall be levied, assessed, and collected upon the net income of every individual an additional income tax (herein referred to as the additional tax) of 1 per centum per annum upon the amount by which the total net income exceeds \$20,000 and does not exceed \$50,000, and 2 per centum per annum upon the amount by which the total net income exceeds \$50,000 and does not exceed \$75,000, 3 per centum per annum upon the amount by which the total net income exceeds \$75,000

and does not exceed \$100,000, 4 per centum per annum upon the amount by which the total net income exceeds \$100,000 and does not exceed \$250,000, 5 per centum per annum upon the amount by which the total net income exceeds \$250,000 and does not exceed \$500,000, and 6 per centum per annum upon the amount by which the total net income exceeds \$500,000. All the provisions of this section relating to individuals who are to be chargeable with the normal income tax, so far as they are applicable and are not inconsistent with this subdivision of paragraph A, shall apply to the levy, assessment, and collection of the additional tax imposed under this section. Every person subject to this additional tax shall, for the purpose of its assessment and collection, make a personal return of his total net income from all sources, corporate or otherwise, for the preceding calendar year, under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. For the purpose of this additional tax the taxable income of any individual shall embrace the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint stock companies, or associations, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate, instead of being divided or distributed; and the fact that any such corporation, joint stock company, or association is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not

be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint stock company, or association shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same if distributed.

B. That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent: *Provided*, That the proceeds of life insurance policies paid upon the death of the person insured or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, or upon surrender of contract, shall not be included as income.

That in computing net income for the purpose of the normal tax there shall be allowed as deductions: First, the necessary expenses actually paid in carrying on any business, not including personal, living, or family ex-

penses; second, all interest paid within the year by a taxable person on indebtedness; third, all national, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits; fourth, losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise; fifth, debts due to the taxpayer actually ascertained to be worthless and charged off within the year; sixth, a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per centum of the gross value at the mine of the output for the year for which the computation is made; but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made. *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; seventh, the amount received as dividends upon the stock or from the net earnings of any corporation, joint stock company, association, or insurance company which is taxable upon its net income as hereinafter provided; eighth, the amount of income, the tax upon which has been paid or withheld for payment at the source of the income under the provisions of this section, provided that whenever the tax upon the income of a person is required to be withheld and paid at the source as hereinafter required, if such annual income does not exceed the sum of \$3,000 or is not fixed or certain, or is indefinite, or irregular as to amount or time of accrual, the same shall not be deducted in the personal return of such person.

The net income from property owned and business

carried on in the United States by persons residing elsewhere shall be computed upon the basis prescribed in this paragraph and that part of paragraph G of this section relating to the computation of the net income of corporations, joint stock and insurance companies, organized, created, or existing under the laws of foreign countries, in so far as applicable.

That in computing net income under this section there shall be excluded the interest upon the obligations of a State or any political subdivision thereof, and upon the obligations of the United States or its possessions, also the compensation of the present President of the United States during the term for which he has been elected, and of the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State or any political subdivision thereof except when such compensation is paid by the United States Government.

C. That there shall be deducted from the amount of the net income of each of said persons, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a married man with a wife, living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife. *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together.

D. The said tax shall be computed upon the remainder of said net income of each person subject thereto, accruing during each preceding calendar year ending December thirty-first: *Provided, however*, That

for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be computed on the net income accruing from March first to December thirty-first, nineteen hundred and thirteen, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions herein provided for. On or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made by each person of lawful age, except as hereinafter provided, subject to the tax imposed by this section, and having a net income of \$3,000 or over for the taxable year, to the collector of internal revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources and from the total thereof, deducting the aggregate items or expenses and allowance herein authorized; guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall make and render a return of the net income of the person for whom they act, subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals: *Provided*, That a return made by one of two or more joint guardians, trustees, executors, administrators, agents, receivers, and conservators, or other persons acting in a fiduciary capacity, filed in the district where such person resides, or in the

district where the will or other instrument under which he acts is recorded, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph; and also all persons, firms, companies, copartnerships, corporations, joint stock companies or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another person subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal income tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be withheld at the source of the income shall not be construed to require any of such tax to be withheld prior to the first day of November, 1913. *Provided, further*, That in either case above mentioned no return of income not exceeding \$3,000 shall be required: *Provided, further*, That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district collector, shall forward to him a correct statement of such profits and the names of the individ-

nals who would be entitled to the same, if distributed: *Provided, further,* That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided. Any person for whom return has been made and the tax paid, or to be paid as aforesaid, shall not be required to make a return unless such person has other net income, but only one deduction of \$3,000 shall be made in the case of any such person. The collector or deputy collector shall require every list to be verified by the oath or affirmation of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. If dissatisfied with the decision of the collector, such person may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish sworn testimony of witnesses to prove any relevant facts.

E. That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery

thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid, and interest at the rate of 1 per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

All persons, firms, copartnerships, companies, corporations, joint stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United

States Government authorized to receive the same; and they are each hereby made personally liable for such tax.

In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, as aforesaid, such person shall not receive the deduction and benefit of the exemption allowed in paragraph C of this section except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him, a signed notice in writing claiming the benefit of such exemption and thereupon no tax shall be withheld upon the amount of such exemption; *Provided*, That if any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of \$300; nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B of this section unless he shall, not less than thirty days prior to the day on which the return of his income is due, either file with the person who is required to withhold and pay tax for him a true and correct return of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, likewise make application for deductions to the collector of the district in which return is made or to be made for him: *Provided further*, That if such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and

application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath under the penalties of this act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete: *Provided further*, That the amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed and determinable annual gains, profits, and income derived from interest upon bonds, and mortgages, or deeds of trust, or other similar obligations of corporations, joint-stock companies or associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to \$3,000, subject to the provisions of this section requiring the tax to be withheld at the source and deducted from annual income and paid to the Government; and likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries; and the tax in each case shall be withheld and deducted for and in behalf of any person subject to the tax hereinbefore imposed, although such interest, dividends, or other compensation does not exceed \$3,000, by any banker or person who shall sell or otherwise realize coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends (not payable in the United States), and any per-

son who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons; but in each case the benefit of the exemption and the deduction allowable under this section may be had by complying with the foregoing provisions of this paragraph.

All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

Nothing in this section shall be construed to release a taxable person from liability for income tax nor shall any contract entered into after this Act takes effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

The tax herein imposed upon annual gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be as-

essed by personal return under rules and regulations prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

The provisions of this section relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

F. That if any person, corporation, joint stock company, association, or insurance company liable to make the return or pay the tax aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, such person shall be liable to a penalty of not less than \$20 nor more than \$1,000. Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this section to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

G. (a) That the normal tax hereinbefore imposed upon individuals likewise shall be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint stock company or association, and every insurance company, organized in the United States, no matter how created or organized, but not including partnerships; but if organized, authorized, or existing under the laws of any foreign country, then upon the amount of net income arising or accruing by it from business transacted and capital invested within the United States during such year: *Provided, however,*

That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor to any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare: *Provided further*, That there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: *Provided*, That whenever any State, Territory, or the District of Columbia, or any political subdivision of the State or Territory, has, prior to the passage of this Act, entered in good faith into a contract with any per-

son or corporation, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this Act upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this section upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

(b) Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint stock company or association, or insurance company, received within the year from all sources, (first) all the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any; and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts; *Provided further*, That mutual fire insurance companies re-

quiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (third) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a

part of its expense of doing business: *Provided, further,* That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan, or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the Government of any foreign country; *Provided,* That in the case of a corporation, joint stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income accrued within the year from business transacted and capital invested within the United States, (first) all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business, and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year in business conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies

the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided further*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (third) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding the proportion of one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the capital employed in the business at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross

amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State, or Territory thereof, or the District of Columbia. In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

(c) The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first: *Provided, however*, That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be imposed upon its entire net income accrued within that portion of said year from March first to December thirty-first, both dates inclusive, to be ascertained by taking five-sixths of its entire net income for said calendar year: *Provided further*, That any corporation, joint-stock company or association, or insurance company subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty

days prior to the date upon which its annual return shall be filed. All corporations, joint-stock companies or associations, and insurance companies subject to the tax herein imposed, computing taxes upon the income of the calendar year, shall, on or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, and all corporations, joint-stock companies or associations, and insurance companies, computing taxes upon the income of a fiscal year which it may designate in the manner hereinbefore provided, shall render a like return within sixty days after the close of its said fiscal year, and within sixty days after the close of its fiscal year in each year thereafter, or in the case of a corporation, joint-stock company or association, or insurance company, organized or existing under the laws of a foreign country, in the place where its principal business is located within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, shall render a true and accurate return under oath or affirmation of its president, vice president, or other principal officer, and its treasurer or assistant treasurer, to the collector of internal revenue for the district in which it has its principal place of business, setting forth (first) the total amount of its paid-up capital stock outstanding, or if no capital stock, its capital employed in business, at the close of the year; (second) the total amount of its bonded and other indebtedness at the close of the year; (third) the gross amount of its income, received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and capital invested within the United States; (fourth) the total amount of all its ordinary and necessary expenses paid

out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company within the year, stating separately all rentals or other payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States; (fifth) the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided further*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in the deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or

credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; and in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided further*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (sixth) the amount of interest accrued and paid within the year

on its bonded or other indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock, outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of indebtedness not exceeding the amount of capital employed in the business at the close of the year, and in the case of a bank, banking association, or trust company, stating separately all interest paid by it within the year on deposits; or in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded or other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of capital employed in the business at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States; (seventh) the amount paid by it within the year for taxes imposed under the authority of the United States and separately the amount so paid by it for taxes imposed by the Government of any foreign country; (eighth) the net income of such corporation, joint-stock company or association, or insurance company, after making the deductions in this subsection authorized. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

All assessments shall be made and the several corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the thirtieth day of June:

Provided, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and twenty days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, or after one hundred and twenty days from the date on which the return of income is required to be made by the taxpayer, and after ten days' notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due.

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and

approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company, association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid, shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding \$10,000.

H. That the word "State" or "United States" when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

I. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof,

set forth or disclosed in any income return by any person or corporation, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or the amount or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

“SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

“SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, in case of a special tax, on or before the thirty-first day of July in each year, in case of income tax on or before the first day of March in each year, and in other cases before the day on which the taxes accrue, to make a list or return, verified by oath or affirmation, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchan-

dise made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person,

on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books, at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects liable to tax or the returns thereof. The collector may summon any person residing or found within the State in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

“**Sec. 3176.** When any person, corporation, company or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person or corporation, company or

association, and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add 100 per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add 50 per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held *prima facie* good and sufficient for all legal purposes."

J. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this section, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such re-

ceipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

K. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

L. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this section, are hereby extended and made applicable to all the provisions of this section and to the tax herein imposed.

M. That the provisions of this section shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general governments, thereof, respectively: *And provided further*, That the jurisdiction in this sec-

tion conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this section shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico, and the Philippine Islands or the political subdivisions thereof.

N. That for the purpose of carrying into effect the provisions of Section II of this Act, and to pay the expenses of assessing and collecting the income tax therein imposed, and to pay such sums as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may deem necessary, for information, detection, and bringing to trial and punishment persons guilty of violating the provisions of this section, or conniving at the same, in cases where such expenses are not otherwise provided for by law, there is hereby appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year ending June thirtieth, nineteen hundred and fourteen, the sum of \$800,000, and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint and pay from this appropriation all necessary officers, agents, inspectors, deputy collectors, clerks, messengers and janitors, and to rent such quarters, purchase such supplies, equipment, mechanical devices, and other articles as may be necessary for employment or use in the District of Columbia or any collection district in the United States, or any of the Territories thereof: *Provided*, That no agent paid from this appropriation shall receive compensation at a rate higher than that now received by travelling agents on accounts in the

Internal Revenue Service, and no inspector shall receive a compensation higher than \$5 a day and \$3 additional in lieu of subsistence, and no deputy collector, clerk, messenger, or other employee shall be paid at a rate of compensation higher than the rate now being paid for the same or similar work in the Internal Revenue Service.

In the office of the Commissioner of Internal Revenue at Washington, District of Columbia, there shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, one additional deputy commissioner, at a salary of \$4,000 per annum; two heads of divisions, whose compensation shall not exceed \$2,500 per annum; and such other clerks, messengers, and employees, and to rent such quarters and to purchase such supplies as may be necessary: *Provided*, That for a period of two years from and after the passage of this Act the force of agents, deputy collectors, inspectors, and other employees not including the clerical force below the grade of chief of division employed in the Bureau of Internal Revenue in the city of Washington, District of Columbia, authorized by this section of this Act shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, under such rules and regulations as may be fixed by the Secretary of the Treasury to insure faithful and competent service, and with such compensation as the Commissioner of Internal Revenue may fix, with the approval of the Secretary of the Treasury, within the limitations herein prescribed: *Provided further*, That the force authorized to carry out the provisions of Section II of this Act, when not employed as herein provided, shall be employed on general internal-revenue work.

Approved, 9.10 p. m., October 3, 1913.

WOODROW WILSON.

